Financial Sector
Conduct Authority

CONSULTATION REPORT

CONDUCT STANDARD - CONDITIONS FOR SMOOTHED BONUS PRODUCTS TO FORM PART OF DEFAULT INVESTMENT PORTFOLIOS

PENSION FUNDS ACT, 1956 (ACT NO. 24 OF 1956)

FINANCIAL SECTOR REGULATION ACT, 2017 (ACT NO. 9 OF 2017)

1. Purpose

The purpose of this document is to set out, as required in terms of section 104(1) of the FSR Act, a report on the consultation process undertaken in respect of the draft Conduct Standard - Conditions for smoothed bonus products to form part of default investment portfolios ("draft Conduct Standard").

2. Definitions

In this consultation report –

"Authority" means the Financial Sector Conduct Authority;

"Pension Funds Act" means the Pension Funds Act, 1956 (No. 24 of 1956) ("the PFA"); and

"Financial Sector Regulation Act" means the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) ("FSR Act").

3. Summary of public consultation process

3.1 This consultation report must be read with the *Statement supporting the draft Conduct Standard - Conditions for smoothed bonus products to form part of default investment portfolios.*

3.2 In February 2018, the then Registrar of Pension Funds published for public comment a draft Notice proposing condition to be prescribed that smoothed bonus policies must comply with to be eligible as a default investment portfolio.

3.3 Comments were received on the draft Notice and this led to amendments to the draft Notice.

3.4 Following the first round of public consultation, in November 2018 the FSCA published the following documents for a second round of public consultation:

- Notice regarding the publication of draft Conduct Standard (see **Attachment A**);
- draft Conduct Standard on *Conditions for Smoothed Bonus Products to form part of Default Investment Portfolios* (draft Conduct Standard);
- Consultation Report;
- Statement explaining the need for, intended operation and expected impact of the draft Conduct Standard; and
- Comments Template.

3.5 Comments were received on the draft Conduct Standard and subsequent individual stakeholder meetings were held to further unpack the comments. To the extent that the Authority was in agreement with commentary received, amendments were made to the draft Conduct Standard accommodating such comments.

4. General account of the issues raised in the submissions made during the consultation

4.1 A total of 72 individual comments were received from 7 different commentators on the second version of the draft Conduct Standard that was published for public consultation. Comments were received from Alexander Forbes (AF), the Actuarial Society of South Africa (ASSA), the Association for Savings and Investment South Africa (ASISA), Home Loan Guarantee Company NPC (HLGC), Institute of Retirement Funds Africa (IRFA), Just and MMI Group Limited (MMI).

4.2 All comments received as part of the public consultation process were considered and are set out in the table as per the Schedule below, together with the Authority's responses to the comments received.

4.3 The issues raised by commentators were mostly of a technical nature and there were no fundamental policy matters influencing the outcome of the draft Conduct Standard in a substantial manner.

4.4 The biggest concern raised related to transitional arrangements and various commentators requested that sufficient lead time be allowed (at least 6 months) to implement the requirements of the Conduct Standard. The FSCA agreed to this approach and a 9-month transitional period has been provided for.

SCHEDULE

PUBLIC COMMENTS AND RESPONSES:

DRAFT CONDUCT STANDARD - CONDITIONS FOR SMOOTHED BONUS PRODUCTS TO FORM PART OF DEFAULT INVESTMENT PORTFOLIOS

No.	COMMENTATOR	ABBREVIATION
1.	Alexander Forbes	AF
2.	Actuarial Society of South Africa	ASSA
3.	Association for Savings and Investment South Africa	ASSISA
4.	Home Loan Guarantee Company NPC	HLGC
5.	Institute of Retirement Funds Africa	IRFA
6.	Just	Just
7.	MMI Group Limited	MMI

No.	Paragraph	Commentator	Comments	FSCA Response
1. DEFINITIONS				
1.	1	AF	definition of “policy”: Isn’t “fund return” a defined term in the PFA, and is it used correctly here – should it not just be “return”	Agreed. Amendment made.
2. PURPOSE				
2.	2	AF	· We welcome the clarification and agree that it is necessary. In particular for the introduction of Regulation 37. · Agree that smoothed bonus arrangements should be allowed to be considered for default arrangements,	These conditions only relate to smoothed bonus policies forming part of the default portfolio.

No.	Paragraph	Commentator	Comments	FSCA Response
			subject to these meeting the required standards · Does this mean that these standards do not apply to policies that are not part of a default portfolio – presumably it does	
3.	2	IRFA	• The word "Draft" must be omitted in the final Standard. • Change "smooth" to "smoothed" in order to align with the applicable definition. • Replace "part of the" with "a".	• As this is still a draft version, reference to "Draft" is still necessary. The final version will not contain such a reference. • Agreed. Amended made. • These criteria must be complied with for a smoothed bonus policy to form part of the default investment portfolio, not only if it is the only investment.
4.	2	Just	Just is strongly supportive of this excellent Draft Conduct Standard. We have made comments providing a rationale for this support in section D under "any other general comments".	Noted.
3. PRINCIPLES				
5.	3(1)	AF	· We believe that a smoothed bonus policy may be suitable for the requirements of Regulation 37 and the definition of 'default investment portfolio' · Can it be included as "a part of" default as opposed to the whole default?	It can be included as part of the default portfolio, as long as it complies with the conditions set out in the conduct standard.
6.	3(1)	MMI	No comment, supporting the conditions.	Noted.
7.	3(2)	AF	· We agree that governance is of the utmost importance for discretionary participation policies. · The word "in" is missing before "this Conduct Standard"	• Noted • Agreed. Amendment made.
8.	3(2)	ASISA	Typographical error. Correction suggested as indicated. : … as provided for in this Conduct Standard and…	Agreed. Amendment made.

No.	Paragraph	Commentator	Comments	FSCA Response
9.	3(2)	MMI	No comment, supporting the conditions.	Noted.
10.	3(3)	IRFA	"policies" should read "policy".	See amended version.
11.	3(3)	MMI	No comment, supporting the conditions.	Noted.
12.	3(3)(a)	Just	This formulaic approach brings much needed transparency to smooth bonus products and ensure customers are treated fairly and consistently within the Fund, between participating employers and over time.	Noted.
13.	3(3)(a)(i)	AF	• We agree that disclosing a bonus formula and indicating the removal of bonuses, makes these solutions more transparent for investors. • Agree with formulaic approach. However, not sure why a 2% per annum is set and will create issues. This is far too restrictive and in our experience parameters such as this should be avoided. • Instead, a principle approach should be that there is a fair smoothing of returns and the allocation of that between remaining and existing members over rolling period of not more than 5 years. Rather suggest that the statutory actuary of the life insurer sign off that the formula and approach is reasonable and provides a fair and reasonable arrangement to both exiting and remaining members over time. The key is to avoid excessive reserves building up.	Disagree. The 2% is set to limit an insurer's discretion. In addition, in the case where this is a default portfolio, the period for smoothing has been reduced to 24 months, to compromise between smoothing cross subsidies and giving a volatile return earned.
14.	3(3)(a)(ii)	AF	• We agree that this improves the transparency of the solution for investors. It can imply better-informed decisions. • Agree that this be included to address the key criticisms of current smoothed bonus arrangements and ensure that there is transparency and clarity around when shareholders step in.	Noted.

No.	Paragraph	Commentator	Comments	FSCA Response
15.	3(3)(a)(iii)	AF	• We agree that this improves the transparency of the solution for investors. It can imply better-informed decisions. But again a very good inclusion to address criticisms of existing smooth bonus arrangements.	Noted.
16.	3(3)(a)(iii)	Just	This will bring much needed transparency to enable Funds to assess the value of any capital support provided against the charge for cost of capital.	Noted.
17.	3(3)(a)(vi)	AF	• We agree that this improves the transparency of the solution for investors.	Noted.
18.	3(3)(a)(v)	AF	• This is problematic and a 24 month spreading period is not long enough. Shortening the period reduces the benefits of a stable approach in volatile markets. A fair approach is to be struck between exiting and remaining members, ensuring that those who leave get a fair return, and those that remain benefit from the smoothing. • Markets are volatile and a minimum period of 3 years would be recommended. This also ties in with the typical statutory valuation cycles of retirement funds (typically every 3 years). But more importantly, it allows for smoothing to be applied over a sensible market cycle. • This should be made consistent with 3(3)(a)i (i.e. rolling 5 years). • We think there are a few questions of clarity on these conditions. We think these sub-clauses refer to the spreading period used to smooth excess/deficit funds to the smooth liability/policy value. We can be comfortable	• Disagree. The intention is to smooth the excess stabilisation reserve over 24 months, not to distribute the entire stabilisation reserve over 24 months. It is not the intention to reach a 100% funding level. • As previously noted above, a 24 month period represents a compromise between smoothing cross subsidies and giving a volatile return earned.

No.	Paragraph	Commentator	Comments	FSCA Response
			with this, i.e., that our formula will smooth an excess/deficit in a ratio of more than 1/24th a month. But this does not guarantee that a policy that it 124% funded at the start of the period is going to be 100% funded at the end. • We also think it is useful to clarify what is 'excess BSR'? Is it everything above a funding level of 100%, or only above a funding target, which can be as high as 105%. • Does the draft mean that the excess must be allocated over 24 months or that the period used in determining the excess is 24 months, or both?	
19.	3(3)(a)(vi)	AF	• This links in with the previous point. We suggest it is difficult to have a formula that distributes the excess BSR over 100% funding level over 24 months, if we have a long-term funding target of 105%. • We are also not clear on the definition of 'long-term' funding level. What is considered long-term? If it is just a reference to the target in the formula? Then tick. If it is saying that the funding level will not exceed 105% at the end of a 5/10-year period, then it does not seem intuitively practical. • We request some clarity on the wording in the conduct standard but agree this is an important provision to ensure that the reserves don't build up excessively.	See previous response. It is a reference to the target in the formula. Please note that the Conduct Standard notes that "any excess bonus stabilisation reserve" must be spread, not that the full bonus stabilisation reserve must be spread.
20.	3(3)(a)(vi)	Just	This will ensure different generations of customers are treated fairly and avoids conflict of interests between shareholders who desire a high funding level, and policyholders who desire smoothed returns which are as close as possible to the returns they actually experience.	Noted.

No.	Paragraph	Commentator	Comments	FSCA Response
21.	3(3)(a)(vii)	AF	• We agree that disclosing practices and procedures to all relevant stakeholders improves transparency and understanding of the investment. • We would also suggest that a requirement be to specify the charges explicitly and to have these motivated that they are reasonable and fair taking into account the underlying portfolio, the various features and benefits of the policy. Clients should be provided with information to assess that they are getting value for money. • Providers should also provide information demonstrating the extent to which any guarantees will kick in, the likelihood of such guarantees kicking in given the underlying investment strategy. This will assist funds to determine whether they are getting reasonable value for money on any insurance components included in the policy.	Please note that the requirement to disclose fees was already covered in (d) and the information relating to the guarantees was covered in (ii) and (iii).
22.	3(3)(b)	AF	• We would suggest that application rather be made for exemptions and that this only be done following approval from the Authority. Current wording provides a loophole that insurers would use and then motivate for the exception and just notify the Authority. This requirement needs to be strengthened to avoid this. • Timing for a response from the Authority needs to be defined. • Response from the Authority also needs to be defined - is it consent? Or to just notify the Authority? • What is envisaged/defined to be 'exceptional circumstances'? • Why does this only apply for (3)(a)(v)? • We agree that it is useful to try and codify as many of these elements as possible to assist investors with	The exceptional circumstances envisaged relate largely to significant and unexpected drops in the market. An insurer may need to act within a day to ensure the ongoing soundness for remaining investors. An approval process will not take a day or less and will compromise an insurer in the aforementioned circumstances. For this reason, prior notification will be retained. Should an insurer abuse this or act out of line with the intended principles, separate regulatory action may be taken.

No.	Paragraph	Commentator	Comments	FSCA Response
			transparency. I also think it is useful to have some 'controlled' discretion for the Regulatory Authority to consider exceptional circumstances. However, we think this may apply to any of the (3)(a) sub-clauses.	
23.	3(3)(b)	AF	• Agree the requirement to disclose to the fund and members.	Noted.
24.	3(3)(b)	ASISA	A question has been raised as to whether there will be a prescribed format for this communication, and also information is requested as to whom at the Authority this communication should be addressed.	At this stage no prescribed format is envisaged. This is expected to only in exceptional circumstances, and for the time being the notification can be addressed to the Divisional Executive for Retirement Fund Supervision.
25.	3(3)(c)	AF	• Agree with disclosure. Point to PPFM	Noted.
26.	3(3)(c)	IRFA	For the sake of clarity, insert "by the insurer" after "management actions that may be taken".	Agreed. Amendment made.
27.	3(3)(c)	Just	This will improve transparency around derivative strategies followed, and how these benefit customers relative to shareholders	Noted.
28.	3(3)(d)	AF	• Agree that all charges should be disclosed.	Noted.
29.	3(3)(e)	AF	• Agree that the application of an MVA requires some clarification in the policy. • However, potential challenges: What is considered to be 'materially significant retrenchments'? Authority/Conduct Standard to clarify.	A principle-based approach in determining whether it is a materially significant retrenchment is proposed, as it will depend on the circumstances of each matter. It could likely relate to the amount required to be disinvested compared to the overall portfolio

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			• Need to consider how sub-funds within the umbrella fund are treated? What is the plan?	assets, but each insurer will have to assess the facts of the matter. Please note that there are no separate requirements relating to participating employers within an umbrella.
30.	3(3)(f)	AF	• Agree that other than the application of a market value adjustment to protect remaining policyholders, there should be no specific penalties payable by the investor, other than the costs associated with processing the disinvestment. To the extent that there are expenses associated with disinvesting these will be borne by the investor when they disinvest. Require clarification that this is viewed as being different to a termination penalty	A termination penalty is not a defined term. Disinvestment penalties and MVAs are separately considered.
31.	3(3)(f)	Just	This is helpfully consistent with 4 (2) (f)	Noted.
32.	3(4)	MMI	Certain smooth bonus portfolios may follow a dynamic asset allocation strategy and therefore will not have a strategic asset allocation (for example absolute return portfolios and dynamically hedged portfolios). It is our interpretation that for these portfolios, adequate explanation of the investment philosophy to clients will be sufficient to ensure criteria with the requirement. Furthermore, changes to the asset allocation for such portfolios will be allowed as long as they are in line with the communicated investment philosophy	In order for a smoothed bonus policy to form part of the default investment portfolio, it will need to have a disclosed strategic asset allocation and this must comply with the asset spreading limits set out in Regulation 28. The communication of alternate arrangements is not sufficient.
33.	3(4)(a)(i)	AF	• Agree that the underlying assets should comply with the same Regulations if this was not a discretionary participation policy. • As long as the SAA can be changed over time.	Yes the underlying assets must comply with the Regulations. The requirements for a change in SAA are set out in this paragraph.
34.	3(4)(a)(i)	ASSA	Change heading to “Strategic Asset Allocation” It appears that Sub-sections 4 and 5 of Section 3 of the	This paragraph includes the requirement for the policy to remain within disclosed limits

No.	Paragraph	Commentator	Comments	FSCA Response
			draft standard are intended to refer to strategic and tactical asset allocation respectively, i.e. sub-section 4 is specifically aimed at changes to the long-term asset allocation which fundamentally change the nature of the portfolio, whereas sub-section 5 is aimed at short-term (temporary) asset allocation changes in response to extreme market conditions.	and to comply with Regulation 28. It is therefore not only limited to strategic asset allocation.
35.	3(4)(a)(i)	IRFA	Certain smoothed bonus portfolios may follow a dynamic asset allocation strategy and therefore will not have a strategic asset allocation (for example absolute return portfolios and dynamically hedged portfolios). It is our interpretation that for these portfolios, adequate explanation of the investment philosophy to clients will be sufficient to ensure criteria with the requirement. Furthermore, changes to the asset allocation for such portfolios will be allowed as long as they are in line with the communicated investment philosophy.	See response to comment number 32.
36.	3(4)(a)(ii)	AF	• As per 3(4)(a)(i) • I do not understand why this exemption does not apply in this case?	The default investment strategy must be in line with the asset limits as set out in Regulation 28. Since a smoothed bonus portfolio is a long-term investment policy, the exemption in 28(8)(b)(iii) would otherwise allow the investment strategy to not comply with the Regulation 28 limits.
37.	3(4)(a)(ii)	ASISA	ASISA members believe that it is important to clearly distinguish between smoothed bonus policies that offer smoothing only and smoothed bonus policies that offers smoothing and guarantees. It is agreed that smoothed bonus policies that offer smoothing only should comply with the limits of Regulation 28. However, it is submitted that the rationale for exclusion as per	If a particular policy does not comply with the asset spreading limits, it cannot be considered as part of the default portfolios, regardless of whether it offers smoothing or guarantees. This is how the conduct standard is phrased.

No.	Paragraph	Commentator	Comments	FSCA Response
			Regulation 28(8)(b)(iii) applies irrespective of whether or not the smoothed bonus policy is used as a default. It is therefore submitted that the applicability of Regulation 28(8)(b)(iii) is not affected by the introduction of default regulations and that the introduction of default regulations should not affect how Regulation 28 is applied	
38.	3(4)(a)(ii)	IRFA	Although we agree with the principle, we believe that regulation 28(8)(b)(iii) itself must be amended to exclude its application in case of a smoothed bonus default investment portfolio	Although regulation 28(8)(b)(ii) states that a linked policy may be excluded, the Authority is empowered to prescribe conditions for purposes of the definition of default investment portfolio. As such, one of the conditions that are to be prescribed is that if a linked policy is to be included as part of a default investment portfolio, such policy may not be excluded for purposes of regulation28(8)(b)(ii). This condition therefore does not apply to linked policies in general, but only if such policy is to be included as part of a default investment portfolio. Accordingly, we are of the opinion that it is appropriate to deal with this aspect in the Conduct Standard and not through an amendment to the Regulations.
39.	3(4)(b)	AF	• Agree. But what is considered a material change? Also suggest that this is signed off by the statutory actuary as this may create extra risk. • It seems a strange one to notify the authority – this is not a requirement for any other type of default – so if I have a market linked portfolio I can change from 70% to 20% equity no problem, but if a smooth return only (no guarantee) then I must notify them? Seems bizarre	A principle-based approach in determining whether it is a material change is proposed, and it will depend on the circumstances of each matter. A change in strategic asset allocation represents a change in risk and therefore a change in the guarantees provided. Additional consideration is therefore required. Please note that the statutory

No.	Paragraph	Commentator	Comments	FSCA Response
			to me • For portfolios that are managed using Discretion rather than Strategic Asset Allocation, this requirement needs to be more inclusive.	actuary would need to be involved as part of the life office's processes, not as part of the requirements of the pension fund.
40.	3(4)(b)	ASISA	A question has been raised as to whether there will be a prescribed format for this communication, and also information is requested as to whom at the Authority this communication should be addressed.	As this stage a prescribed format is not envisaged. Also see response to comment number 24 above.
41.	3(4)(c)	AF	• I think 3(4)(c) is a somewhat 'clumsy' condition. It is precedes 3(5) – that allows exception to this condition. • Why would there ever be a change of SAA out of line with philosophy? • I suggest scrapping 3(4)(c). I do not understand the purpose of its inclusion.	3(4)(c) introduced the requirement that members be given the opportunity to opt out without an MVA if such a change is being proposed. This is not covered in other requirements. Requirement will be retained.
42.	3(4)(c)	ASSA	Change "asset allocation" to "strategic asset allocation" and "philosophy" to "strategy". See comment under 3(4)(a)(i)	Disagree, see response to comment number 34. Please also note that reference to "philosophy" is correct as the latter term is wider than "strategy", (although it will include the strategy) and the relevant clause should be applied in the context of the wider term.
43.	3(4)(c)	IRFA	Insert the words "Subject to subparagraph (5)," at the beginning of 3(4)(c).	Please see revised wording which now clarifies the respective requirements.
44.	3(4)(c)	Just	This is helpful to protect policyholder reasonable benefit expectations.	Noted.
45.	3(5)(a)(i)	AF	• Agree that this will assist in the management/transparency/etc., for these solutions. So a material change needs to be 'justified' to the	Noted. As previously mentioned, this conduct standard relates to the pension fund's

No.	Paragraph	Commentator	Comments	FSCA Response
			Authority. Also agree that it provides policyholders with some protection/governance in that it requires oversight from the Authority. • Also suggest sign off by statutory actuary as change in investment strategy would constitute a change in the structure of the product and would need to be approved by the HAF.	investments. The procedures for the insurer to follow are prescribed elsewhere.
46.	3(5)(a)(i)	MMI	No comment, supporting the conditions.	Noted.
47.	3(5)(a)(i)	ASSA	Change heading to "Changes in Asset Allocation under Extreme Market conditions". Change 5(a) to read "In extreme market conditions there may be valid reasons to materially change the asset allocation in order to ensure ongoing solvency and to protect…." Change Sub-section 5(a)(i) to read "in such cases, where material changes to the short-term asset allocation have been made to protect solvency, full disclosure must be made to all affected parties." The current wording of the standard states that permission must be obtained from the Authority to apply an MVA in these circumstances, and that the intention to make any changes needs to be communicated before changes are made. Insurers must be able to apply an MVA as per the product rules in order to limit anti-selection and ensure fairness to other members. During extreme events, for which this clause is intended, members who switch out of the fund without an MVA being applied will benefit relative to those members who switch out of the fund once the Regulator approves the MVA. This delay would	Disagree with change in heading. See amendments to Conduct Standard. Please note that the risk of applying risk mitigation actions which negatively impact policyholders, while preventing the application of the guarantees which are costed into the product, would be further exacerbated if an MVA is also applied.

No.	Paragraph	Commentator	Comments	FSCA Response
			exacerbate anti-selection and inequality between members. In addition, the time taken to wait for such permission and communicate as specified to affected parties would, in the event of extreme market movement, hamper the insurer's ability to alter the asset allocation in order to protect the fund. Changing the wording in this section to specifically only refer to "short-term" asset allocation changes, and only having to communicate once changes have been made, allows the insurer to move swiftly in extreme market conditions whilst at the same time empowering the regulator to ensure that any such changes are only short-term in nature and do not have a more permanent long-term effect on the fundamental nature of the portfolio.	
48.	3(5)(a)(ii)	AF	· As above	Noted.
49.	3(5)(a)(ii)	ASISA	In extreme market conditions, time is of the essence. ASISA members wish to point out that it would be essential that they receive prompt feedback from the Authority to allow protection of policyholders.	Noted.
50.	3(5)(a)(ii)	ASSA	Delete. See comments above.	Disagree. See responses above.
51.	3(5)(a)(ii)	IRFA	• Guidance should be provided on the criteria that will be used to assess applications to be approved by the Authority. Guidance should also be provided on the process and timelines that would apply. • The fund is responsible to ensure that the smoothed bonus policy complies with the requirements of the Standard. Is the intention therefore that the fund must	Disagree that guidance is necessary. This is expected to occur only in exceptional circumstances and each case will be considered on its own merits. The fund would need to inform the Authority of the application made by the insurer on a portfolio that they invest in, as the fund must

No.	Paragraph	Commentator	Comments	FSCA Response
			make the application? The fund may not have the information required. It should be clarified what the fund's duties are in this regard.	be aware of the proposals being made by the insurer and must comment on these.
52.	3(5)(a)(ii)	MMI	The ability to de-risk the investment strategy of a fund in response to extreme market conditions, either through shorter term hedging strategies or through longer term asset allocation changes, represents a key mechanism for an insurer to manage its residual solvency risk. It represents a key aspect of the risk assessment framework applied during product design according to which the nature and level of the shareholder guarantee is determined and costed within client pricing. It is our view that there should be adequate upfront disclosure of the triggers and capacity to de-risk during extreme market conditions. Subject to such adequate upfront disclosure, the application of MVAs in line with disclosed product design during extreme market conditions should be fully allowed and should not be conditional on application to the Authority. Disallowing MVAs during financial distress would lead to mass surrenders at terms that would be highly punitive to remaining customers and the solvency of the policy. However if the requirement to apply to the Authority to apply a MVA remains, guidance should be provided on the criteria that will be used assess applications and approved by the Authority. Guidance should also be provided on the process and timelines that would apply.	The insurer can make application in advance for the specific scenarios under which they would apply an MVA. With regards to issuing guidance on approval criteria, please see response directly above.
4. TREATING CUSTOMERS FAIRLY				

No.	Paragraph	Commentator	Comments	FSCA Response
53.	4	MMI	No comment, supporting the conditions	Noted.
54.	4(1)(a)	AF	• We suggest separating smoothing and guarantees properly – they are two different things	Disagree. We agree that they are different concepts, however, accurate, relevant and simple communication is relevant to both of these concepts.
55.	4(2)	IRFA	The policy contract itself cannot achieve the relevant outcomes. We suggest that 4(2) be changed as follows: "A fund must require that any smoothed bonus policy complies with the following 'treating customers fairly' outcomes and must monitor that the insurer concerned achieves these outcomes, namely	Partially agree- see revised requirements.
56.	4(2)(a)	AF	• This applies to all investments….and in any event applies to the insurers offering the product as part of the Policy holder Protection Rules, so really is moot	The intention is to also place TCF type obligations on funds. We therefore retain that these requirements are necessary. However, see revised requirements.
57.	4(2)(b)	IRFA	The scope of this paragraph is too wide. It should be limited to the smoothed bonus product.	See revised requirements.
58.	4(2)(c)	ASSA	Change "option" to "portfolio"	Agreed. Amended made.
5. DEAFAULT POLICIES PRIOR TO 1 MARCH 2019				

No.	Paragraph	Commentator	Comments	FSCA Response
59.	5	MMI	No comment, supporting the conditions	Noted.
60.	5(1)(a)	IRFA	Change “smooth” to “smoothed”.	Agreed. Amended made.
61.	5(2)(a)	IRFA	There is no clear indication that 5(2) relates to a situation where an exemption was granted. We suggest that, the following be inserted at the beginning of 5(2), i.e. before (a): “If an exemption as contemplated in (1) has been granted:”	Agreed. Amended made.
62.	5(2)(b)	ASSA	Delete "contributions or" Sub-section 2(b) requires that any new contributions made after 1 April 2019 must be invested in a default portfolio which complies with the Standard. This would require insurers to have set up and be running tandem compliant default smooth-bonus portfolios with effect from 1 April 2019. We do not believe this is feasible given the time period and suggest that contributions after 1 April continue to be invested in the original smooth-bonus portfolio for the specified period referred to in 5(1).	Agreed. A nine-month transitional period has been provided for.
6. SHORT TITLE AND COMMENCEMENT				
63.	6	ASISA	The commencement date does not leave sufficient time to implement the conditions. ASISA members request a commencement date of no earlier than six months from date of publication of the final Standard. Motivation: 1) The draft Standard limits an insurer’s flexibility in the management of these policies. In several instances,	See response directly above.

No.	Paragraph	Commentator	Comments	FSCA Response
			ASISA members will need to make changes to PPFM documents, which will require approval by the insurers' boards, given that smooth bonus portfolios are discretionary participation products. Some boards are not scheduled to meet before 1 March 2019. 2) The particulars of the current bonus formulae are set out in ASISA members' policy contracts issued to funds. Policies provide that advance notice (e.g. 30 days) will be given to funds of any changes to be made to these contracts. 3) Many funds are still grappling with the implementation of the other default regulations, especially the default annuity strategy. It is unlikely that these funds will have the time to adequately consider whether their existing smooth bonus policies comply with the conditions set out in the draft Standard. There is a concern that there may potentially be a risk that the time pressure to comply with the conditions in the Standard may lead these boards of trustees to merely accept their insurer's claim of compliance rather than seriously applying their minds to the Standard. 4) The boards of trustees of most funds meet only quarterly. 5) This necessary work cannot commence until it is clear exactly what the Standard requires. The provisions of this draft Standard cannot be assumed to be those of the final Standard. We note that comments on this draft are due to be received by the FSCA by 31 January 2019. We understand that all comments received will be considered and where appropriate, necessary changes will be effected. The revised draft Standard will then be submitted to Parliament for a period of at least 30 days while Parliament is in	

No.	Paragraph	Commentator	Comments	FSCA Response
			session. In the light of these timelines, it appears extremely unlikely that the final Contact Standard will be published by 1 March 2019. 6) A reasonable period of time is required from the date of publication of the final Standard to the commencement date, in order to make the necessary changes to policyholder administration systems, amend policy contracts and to give funds sufficient notice as well as effectively communicate the changes to funds and fund members.	
64.	6	MMI	We request the implementation timeline of 1 March 2019 to be extended to no earlier than six months from date of publication of the final Standard. This is because: 1) Any amendments to policy contract require prior notice to be given to policyholders. This is a contractual requirement; and 2) Any changes to policy contracts require legal input, internal and external governance approval, as well as effective communication to policyholders, consultants and/or trustees (where necessary). All of this takes time.	See response directly above.
ANTICIPATED IMPACT				
65.	Question 1		No comments submitted	
66.	Question 2		No comments submitted	

No.	Paragraph	Commentator	Comments	FSCA Response
67.	Question 3		No comments submitted	
68.	Question 4		No comments submitted	
69.	Question 5	ASISA	Please see comments to 6 in section B above regarding the proposed commencement date of 1 March 2019 and the difficulties that it will present.	Noted. See response to comment number 63 above.
		IRFA	The commencement date of 1 March 2019 is requested to be extended to no earlier than six months from date of publication of the final Standard. This is due to 1. Any amendments to policies require insurers to provide prior notice to be given to funds of any changes to be made, which the boards are required to discuss at the board or appropriate subcommittee meeting - which meetings usually take place quarterly. 2. Any changes to a policy require time to effectively communicate the changes to the fund members.	See response to comment number 63 above.
		MMI	Transitional arrangements may be required if the commencement date is not reconsidered. Any amendments to a policy contract require prior notice to be given to policyholders. This is a contractual requirement. Furthermore, any changes to policy contracts require legal input, internal and external governance approval, as well as effective communication to policyholders, consultants and/or trustees (where necessary).	See response to comment number 63 above.

No.	Paragraph	Commentator	Comments	FSCA Response
GENERAL				
70.		ASSA	Smooth bonus policies are an appropriate default investment option for some members, for example members close to retirement and members who select an in-fund living annuity. However, the additional compliance burden imposed on these policies may result in them not being offered by insurers, or only offered at a higher charge due to their smaller asset base and higher compliance costs of these specialized policies. Funds may therefore be less inclined to utilize smooth bonus funds as a default option due to these higher charges, which will limit members options.	Noted. However, if an insurer wishes to participate in the default investment policy space, they will need to adapt their policies to be compliant.
71.		HLGC	Not applicable to HLGC - No Comment	Noted.
72.		Just	The Just team is close to launching a smoothing product which complies with all aspects of the Draft Conduct Standard – we think it is an excellent standard which brings greater transparency to this market, certainty to the customer, and allows providers to compete on level playing fields based on value for money of their respective propositions. (As an aside: The Just team has considerable experience in these products dating back to the 1990's. At the time, we played a leading role in bringing more rigorous governance and independent asset management to what had previously been purely insurance packaged products linked to in-house asset managers)	Noted.