

An F&I's Guide to **Treating Customers Fairly**



Compiled by



ASSOCIATED COMPLIANCE



A customer is the most important visitor on our premises, he is not dependent on us. We are dependent on him. He is not an interruption in our work. He is the purpose of it. He is not an outsider in our business. He is part of it. We are not doing him a favor by serving him. He is doing us a favor by giving us an opportunity to do so.



Mahatma Gandhi



Preface

There have been numerous warnings regarding the intrusive regulation that will be undertaken by the regulator in terms of the new international demand on financial service providers to treat their customers fairly (TCF). In fact as compliance officers we have been present in a number of recent site visits made by the Financial Services Board (FSB), which our clients found both disconcerting and discomfoting. There can be no doubt that all financial services providers have to revisit their business models to accommodate this new-style regulation.

And the motor industry is no exception; indeed this is also likely to bring the granting of credit into the regulatory net.

The Treasury's Twin-Peaks media release dated 11 December 2014, states, inter alia,

"The Financial Sector Regulation Bill gives effect to the government decision in 2011 to shift to a Twin Peaks model of financial sector regulation for South Africa. Twin Peaks is a comprehensive and complete system for regulating the financial sector. It represents a decisive shift away from a fragmented regulatory approach to reduce the possibility of regulatory arbitrage or forum shopping and close gaps in the regulatory system"

"Key changes have been made to the second draft Bill in order to clarify the role of other financial sector regulators under Twin Peaks. The role of the National Credit Regulator (NCR) was not explicitly explained in the first draft. Numerous stakeholders noted that as a key player, their role should be clarified. This has been done through explicit coordination and cooperation requirements"

It is not the intention of this document to provide motor dealerships' management with TCF guidance as it is assumed that the basic structures have been developed and implemented. However, for those dealerships that do need guidance certain compliance practices can be consulted. There is also a full guide available on the FSB website www.fsb.co.za

The intention of this guide is to solely provide guidance to finance and insurance business managers (referred to as F&Is throughout this document) to meet the six TCF outcomes. It is the F&Is that operate at the point of sale, consequently much of the responsibility of TCF falls on them.

Having said this, it is important that the dealership provides the working environment in which the F&I can provide the services in accordance with this guide, and openly encourages the F&I's non-financial colleagues to operate in a like manner.

The appendix at the end of this guide details the six TCF outcomes but for further information, refer to the numerous comprehensive news releases which have been published and are available on the National Treasury's website www.treasury.gov.za

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Introduction

Your dealership has a moral and legal obligation to treat your customers fairly. Customers have a choice of credit and insurance suppliers and you should be very grateful that a client in approaching your dealership has chosen you to provide them.

By now your dealership should have some form of 'Treating Customers Fairly' statement which sets out, in plain terms, how the dealership is meeting the 'Standards of Conduct' demanded by the financial sector regulator soon to be known as the Financial Sector Conduct Authority (FSCA). The aim of these standards is to improve the experience customers have with their financial services suppliers which ensures their fair treatment.

This guide in no way replaces the policies, procedures or objectives that your dealership has developed to ensure the fair treatment of customers, nor is it intended to conflict with any such standards imposed on you in terms of your employment. It is merely an easy-to-read guide to your day-to-day activities as a finance and insurance business manager and if any term or recommendation conflicts with any demand or requirement imposed on you by your dealership, you would be wise to consult your key individual and/or your compliance officer for guidance.

For ease of reference, we have divided this guide into the following four chapters

Chapter 1: Complying with all relevant laws and regulations

Chapter 2: Acting with the highest ethical standards and integrity

Chapter 3: Acting in the best interests of each client

Chapter 4: Providing the highest possible standard of service

In reading this document, you will quickly realise that the training you receive is a very important part of your development; and indeed it is referred to continuously.

Chapter 1

Complying with all relevant laws and regulations





Keeping up to date with ongoing regulatory and legislative developments

This is easier said than done. In the last 3 years there were no less than 18 papers published relating to financial market conduct reform, some being in excess of 100 pages. Over and above this there have been specific and direct changes to the relevant insurance laws, many of which have forced motor dealerships' to revisit their business models.

Even compliance officers sometimes struggle to keep up to date with regulatory changes so it is extremely difficult for an F&I to do so.

In recognition of this, we (Associated Compliance) produce an electronic newsletter each month which clearly identifies and 'discusses' the legislative changes taking place and the impact that they have on all insurance practitioners so it is important for you to read it. If you haven't already done so, you can register by going to www.associatedcompliance.co.za and click on 'news'. Then all you have to do is complete the form. This is a free service as part of our education drive and it is not necessary for a subscriber to be a client of ours.

You will already be very aware of your 'fit and proper' requirements so these are not repeated here. However, the regulations also state that you will have to pass a further regulatory examination (known as RE level 2) which addresses product category specific knowledge.

With the rapidly changing regulation to accommodate what the Financial Services Board calls 'Twin Peaks', this requirement will in all probability fall away and be replaced by product knowledge training (with testing and assessment) carried out by your product suppliers. This applies to the insurance companies as well as the non-insurance 'VAP' product suppliers that you use.



This training will be regarded as part of your CPD (Continuing Professional Development) which is also a regulated requirement. The new regulation will make your suppliers partly responsible (sometimes totally responsible) for the advice and services that you provide so it is in their own interests to ensure that you really do understand their products and that you continually treat your (and their) customers as fairly as you can.

Your job is to make sure that you get the proper training, which, over and above product knowledge, also embraces selling techniques, disclosures, advice-giving procedures and systems. If training is not regularly provided, it is your responsibility to ensure that your key individual is informed.

Remaining aware of other general business regulatory requirements

It is not expected of an F&I to be a lawyer, but it is expected of an F&I to be aware of, and in some cases fully understand, some of the legal obligations imposed on F&Is by way of general business regulations. For example, did you know that there are some explicit requirements that must be followed when sending e-mails?

These requirements embrace:

- Writings;
- Signatures;
- Agreements;
- Originals;
- Retention of documents;
- Production of documents; and
- Admissibility of evidence.



Similarly there are rules to follow in terms of data protection, POPI (Protection of Personal Information Act) as well as comments you might make regarding your competitors during your selling process.

If you have not had training on any of these, and indeed any other law that may be specific to what you do, you must request it from your key individual.

Investigations, rulings and determinations carried out by the various ombudsman services (Motor, FAIS and OSTI)

South Africa has a mix of voluntary and statutory Ombuds, generally organised on a sectorial basis. The Financial Services Ombud Schemes Act (FSOS) was introduced in 2004 and governs all Ombud schemes, statutory and voluntary that relate to financial services. Voluntary schemes are recognised by the Financial Services Ombud Schemes Council in terms of the FSOS Act.

In the case of F&Is there are three primary Ombuds as follows:

- The FAIS Ombud;
- The Ombudsman for Short Term Insurance; and
- The Ombudsman for Long Term Insurance.

Over and above this, some products that you sell as an F&I will fall under the control of the Office of the Consumer Goods and Services Ombud, set up in terms of the CPA (Consumer Protection Act) as well as the Motor Industry Ombud who now has full authority in terms of the CPA.

In the next few years, it is likely that many of these will be combined under one Ombud, but at the time of publication they remain separate.

These Ombuds usually base their decisions on what is considered fair and reasonable rather than the strict legal position, so it is important to understand exactly what they consider to be 'fair and reasonable' in varying circumstances. Operating within 'the letter of the law' cannot therefore act as a defence so it is important to read their determinations and/or rulings.

They are available on the Ombud's websites, and should be studied at least monthly.

Conflicting rules and procedures

Motor dealerships are established with the intention to make a profit for shareholders, so it is normal practice for shareholders to ensure that employees involved in sales are adequately remunerated, usually through incentives based on either sales volumes or income.

This can often result in a conflict of interest, particularly where you, as a responsible F&I,

know that the range of products and services that you have in your armoury may not be entirely appropriate to satisfy the needs of every client; yet it would not be in your dealership's interest to refer any such client to another provider.

We address conflicts of interest later in this guide, so we do not concentrate on it here. Suffice it to say that if you find that the procedures required of you in terms of your employment, or the demands of your managers conflict with the interests of your customers, you are compelled to bring this to their attention, and the attention of your compliance officer.

Operating outside the six principal outcomes is a very serious offence, and is likely to result in penalties (financial and reputational) which will affect your dealership and your career. The regulator has made it abundantly clear that a very robust and intrusive supervision programme is being adopted.

Understanding all internal and external compliance arrangements

When you, as an F&I, think compliance it is probably with your external compliance officer in mind. Naturally the reports that are prepared by your officer will give you much guidance, but this is not the 'be-all-and-end-all' of compliance.

Compliance also refers to all the systems and procedures laid down for your pursuit by your suppliers (insurance and VAPS), by the banks with whom you act as agent, by the distributors of the vehicles that you sell, and not forgetting the demands in terms of your employment contract. Consequently, it is very important for you to understand exactly what your responsibilities are in each case so that you can operate with the full confidence of a true professional.

Measuring the effectiveness of your dealership's compliance arrangements

Ensuring compliance should in no way or at any time have a negative impact on productivity. Indeed, it should have the reverse affect, because the FAIS General Code of Conduct teaches an F&I how to sell and close deals. More about selling tactics later in this guide.

Measuring the effectiveness of compliance arrangements can be relatively simple. All it needs is a regular review of sales figures, cancellations and complaints. Moreover, the lifetime value of a client in all sectors of the economy (including the motor industry) has been well documented, although returning customer data takes a considerable time to gather and cannot be considered appropriate in the short term.

Sales volumes can easily be measured, as can cancellations and complaints but these latter statistics can only be used effectively when records are accurate. One of the great failings



in the motor sector is the absence of accurate records pertaining to cancellations and complaints simply because in many cases this function is 'outsourced' to the supplier.

Most motor dealerships do keep records of certain complaints, but these usually relate to either very serious complaints or those that might end up on an Ombud's desk.

Also very few, if any, F&Is take the time to contact customers after the deal is done. It is this 'follow-up' which is one of the most useful, yet easy methods of ensuring that a customer is happy and remains happy. This 'follow-up' should not be done within the first few weeks of the sale, but about two months later and then every quarter thereafter. You will be surprised as to how the customer really opens up to you after realizing that you really do have his/her interests in mind.

Keeping accurate records and maintaining contact with your client are the keys that will enable you to measure the effectiveness of your dealership's compliance arrangements, and where you think change is crucial the information and evidence you have collected should provide the motivation needed to convince your manager to make the necessary changes.

Consider all recommendations from the compliance officer as essential; never ignore them

A good compliance officer will do more than just tell you what you are not doing right.

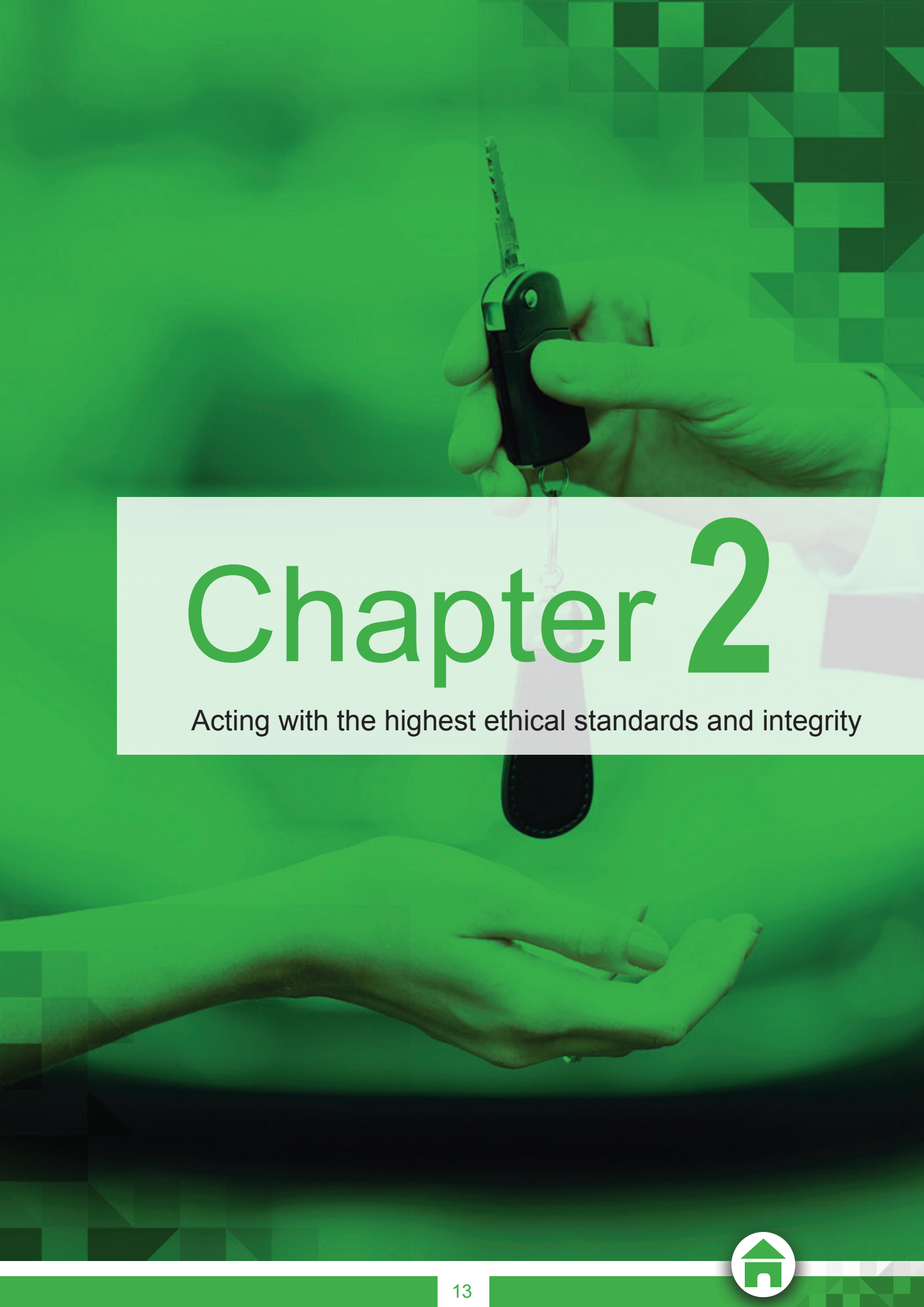
In the early days of compliance, you may well have considered a visit by your compliance officer as an ordeal that had to be endured, and saw it as an internal audit of procedures with the objective of finding fault and reporting this to your manager.

This is certainly not the case, and you should look forward to such a visit because your compliance officer will test your operating procedures against the regulations and procedures laid down by law. He/she will quickly point out any deviations and make recommendations for correction. Whilst improved sales successes is likely to result, what is more important is that the chances of penalty for non-compliance will be largely removed.

If your compliance officer fails to perform in this manner, it may well be advisable to report this to your key individual.

It is also advisable to keep your compliance officer's business card on your desk at all times. Knowing who to contact to receive compliance advice at the time you need it most is an essential ingredient to success as an F&I.

There will be times when, having interviewed a new or prospective client, you feel unsure that you have acted in an appropriate manner. A quick call to your compliance officer will usually ease your discomfort, and if necessary, you can take action immediately thereby limiting any possible harm that might otherwise result.



Chapter 2

Acting with the highest ethical standards and integrity





Acting with the highest ethical standards and integrity

Your client must be confident that he/she is dealing with a dealership where TCF is central to its corporate culture. Although it is possible that your client has dealt with your dealership on a previous occasion, it is not uncommon for this to be your client's first encounter with you. Your dealership will probably have determined a formula which provides the lifetime value of a client. One of the most important ingredients to the formula will be the number of returning customers and number of times they are expected to return.

Consequently, the way a client is first treated and the continued after-sales service provided by you will be a major deciding factor in the formula. Thus acting with the highest ethical standards and integrity is the most important part of your job.

Consider what a client thinks of your selling behaviour, and whether you are truly ethical

It is often said that there are four core values that determine ethical conduct, these being honesty, integrity, reliability and loyalty. Trustworthiness is the result of good ethical conduct, which we deal with in later paragraphs.

Probably the greatest of all ethical values is honesty simply because we all admire and rely on those who are honest. An F&I is compelled to convey information in such a way that it is unlikely to mislead or deceive and which enshrines truth and sincerity. So often there are complaints whereby the client says "had I been told, I would not have bought it". Indeed this is one of the most common complaints in the motor sector.



If you are truthful, it means that you present the facts to the best of your knowledge. If you are sincere, you are considered genuine and would be expected not to make statements or representations which create an impression that certain risks will be covered by your products which, in fact, are not. In other words, you will state *“the whole truth, and nothing but the truth”*.

If you asked a client, as an outsider, what he/she thought whether you acted ethically or otherwise during the sales process, the client is unlikely to be willing to be totally open. So how do you find out?

The truth is you already know the answer.

The client is not stupid. The absence of any of the values mentioned above will have been very quickly picked up by the client, and whilst it is unlikely that the client will ever say anything to you, he/she will certainly mention it to friends and relatives. Moreover, this is likely to form the foundation of any complaint made to the FAIS Ombud.

By the same token, the client will also quickly recognise sincerity and honesty.

Remember, s2 of the FAIS Code of Conduct states *“A provider must at all times render financial services honestly, fairly, with due skill, care and diligence, and in the interests of clients and the integrity of the financial services industry”*.

Nothing less is considered acceptable conduct.



Act as though the FSB was present during the selling process

This statement speaks for itself and is an adjunct to the paragraphs above.

Would you do things differently if the FSB was watching you? Perhaps not, but it does make you think. As compliance officers, we often 'sit in' on a sales process and our experience has been that although the F&I is nervous at first, in each case the F&I has admitted afterwards that the sale went better.

The word 'inculcate' is seldom used today. The Oxford Dictionary definition is "to fix a habit in someone's mind by repetition". By inculcating the thought that a representative of the FSB or your compliance officer is sitting alongside you during the sales process will, over a period of time, ensure that you automatically act in terms of TCF principals.

Fully understand all ethical and conduct codes that apply to you and follow them



Do you know what is contained in your dealership's code of ethics or code of conduct? As an F&I, there are a number of codes which you must adhere to without hesitation. It follows that you must fully understand the contents of those codes and this can only be achieved by study and practical implementation. So what are those codes?

The first, as mentioned above, is your own dealership's code of conduct. It is likely that your dealership also embraces an association's code, such as the RMI or NADA which compels all members to comply. As an agent to certain banks, you are also required to fully comply with the Code of Banking Practice, demanded by all banks who are members of the Banking

Association of South Africa (BASA). If you do not know what is in these codes, how are you expected to follow them?

Then there is the South African Automotive Industry Code, which is prescribed to the entire motor industry under the Consumer Protection Act (Government Gazette 17 October 2014). And more importantly there is the General Code of Conduct, subordinate legislation to the FAIS Act.

Failure to adhere to the latter two codes is likely to result in penalty, for you as the F&I and your dealership, so it is imperative to understand exactly what is required of you in your day-to-day activities.

But more importantly it is also about doing the right thing – following the law, acting honourably and treating others with respect. The various codes of conduct provide a framework for you to put your business principles into practice with utmost integrity. They form the foundation so that everything you do in connection with your work as an F&I can be measured against the highest possible standards of ethics and integrity.

Be rewarded for good ethical behaviour

This is a tough one. Ethical behaviour is really driven by encouragement and reward. Yet very few dealerships make use of any such incentive.

If your dealership is serious about ethics, it must embrace all the elements of ethical conduct in every facet of business, demonstrated by a real commitment from management which should include some form of commendation and reward for ethical behaviour.

Sadly this is rarely seen in the motor industry. Traditionally, the motor industry has incentivised its staff, including the F&I, by providing bonuses or commissions based solely on sales volumes or income. There has been a move, albeit slight, towards including an assessment of quality in commission structures but this is not yet common despite it being one of the requirements in the FAIS General Code of Conduct.

Based on our experience as compliance officers, most F&Is want to act ethically, but often they don't know the 'codes' (see previous paragraphs on codes of conduct). In this case, learning the codes is a prerequisite for success. Sometimes, F&Is do not even realise that there are such codes and only learn policy on an 'as-and-when' basis. Communicating policy — the 'codes' — is one of the biggest challenges dealerships face.

As an F&I it is unlikely that you will have much influence in determining salary and incentive programmes, but it is your responsibility to encourage your organisation to introduce rewards for good ethical behaviour.

So how can ethical behaviour be rewarded? What incentives can be introduced?



The easiest way is for your manager to reward you based on observations, which are then discussed during performance reviews. These would form part of your KPIs. Such observations would include:

- Maintaining confidentiality;
- Being truthful;
- Confronting potentially unethical behaviour;
- Avoiding conflicts of interest; and
- Treating all clients equally according to the client's level of education and sophistication.

These are just a few examples and there are many other ways of identifying good ethical conduct, such as measuring the number of complaints received, the number of cancelled policies in a given period and follow-up calls to clients by managers. It is just a matter of identifying the indicators that will work for your dealership.

Importantly, there must also be consequences for failure in the same way as when not making target in terms of sales.

Overnight support of this is unlikely, but if you as the F&I keep 'chipping away', sooner or later you will get through.

Adhere to your dealership's whistle blowing policy even if it relates to a colleague or manager

What is whistle blowing and does your dealership have a whistle-blowing policy? And if so, do you know what's in it? More importantly, would you comply with it if you knew something that should be made public which your dealership (or a particular person) would like to remain hidden?

A whistle-blower is defined in the Oxford Dictionary as *"A person who informs on someone engaged in an illegal activity"*.

In the previous paragraphs on ethical behaviour, we quoted "confronting potentially unethical behaviour" as one of the F&I's key performance indicators in regard to ethical conduct. In effect, this means that turning a blind eye to wrongdoings of which you are aware would, in itself, be deemed to be unethical.



It is a well-known fact that when whistle-blowers are treated badly, this mistreatment is much more likely to come from management than from colleagues or co-workers. For this reason most whistle blowing policies include a clause entitling an employee to remain anonymous should that employee wish to do so.

If your dealership or someone above you in the dealership is doing something unethical or illegal it is your duty to report this to an appropriate authority. Full details of how you are to do this will be included in your dealership's whistle-blowing policy, but if there is no such policy and you want independent advice at any stage, you may contact **ODAC (Open Democracy Advice Centre)** on **0214471177** or fax **0214471191**. Their legally trained staff can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

Promote trust in your dealership and the financial services industry in all your day-to-day actions

We have already mentioned that trustworthiness is the result of good ethical conduct.

Every sale you make is built on a foundation of faith – faith in your product and in your dealership to deliver on the results you promise. Trust drives advocacy and repeat business. Ultimately, the success of all dealerships is determined by the levels of trust the point of sale employees are able to build. When you make representations to a client, particularly in regard to intangible products like insurance, this creates a legitimate basis for that client to rely on what you have explained and disclosed, and imposes a moral duty on you to fulfil whatever statements and promises you make.

Because promise-keeping is such an important aspect of trustworthiness, it is necessary to action your promises fairly and honestly so before you make a promise you must consider carefully whether you are willing and/or likely to keep it. Sometimes, all you can promise is to do your best.

It is also necessary to avoid half-truths, particularly when rendering products of an intangible nature, such as insurance. These can only be tested at the time of loss or damage so you have to be sure that when you promise that certain risks will be covered, your client understands exactly what you mean and fully comprehends the types of loss which will have to be carried for the client's own account.

Trust is hypersensitive and tends to be volatile – it is much quicker to lose than it is to earn. With social media fast becoming the communication of preference, your trustworthiness is probably the best tool you can own.

And most importantly, you don't need to be perfect to earn trust. You earn trust by delivering what you promise to your clients.



Do people really trust you?

Having explained the importance of trustworthiness, you have to ask yourself if clients (or colleagues for that matter) really trust you. So how do you know if people trust you?

In the office it is relatively easy to ascertain. When your colleagues and managers trust you, they give you greater leeway because they feel that monitoring your activities will be unnecessary simply because they know you will meet your obligations. They will believe in you and hold you in high esteem.

But at the same time you have to constantly live up to their expectations and refrain from any behaviour that could quickly destroy your reputation.

It's not so easy to ascertain whether a client trusts you or not. But there are a number of simple 'self-tests' that you can use.

- **Being punctual:** If you say you will be somewhere, do you make sure that you are there on time?
- **Things you say:** If you say something is going to happen, does it usually happen?
- **Disclosures you make:** When you disclose insurance detail to a client, would another F&I provide the disclosures that match what you disclosed?
- **Interventions:** In witnessing a colleague misrepresenting products or services to a prospective client, do you intervene or 'walk away'?
- **Withholding Information:** Do you sometimes withhold information in order to make things go more smoothly or to avoid conflict?

The key to trust is truthfulness and presenting the facts to the best of your knowledge – but never forget to listen to your client. There is nothing more annoying than 'overriding' what your client has to say. The old English saying of "*God has given man two ears but only one mouth for a very good reason*" certainly applies to the salesperson.

Never think that all is well because nobody has complained

We've all had bad experiences in a restaurant, and we all know that we should complain. Surveys in the USA, however, have shown that only 20% of people actually complain to the management. The other 80% refuse to return to that restaurant. Moreover, with social media becoming so prevalent, it is becoming increasingly common for complaints and dissatisfactions to go viral, with a devastating impact on reputation.

There can be no doubt that the same will apply to the services you provide. Just because you receive few, or sometimes no complaints, it does not mean that all is going well. In previous paragraphs we have highlighted the need for you to remain in contact with your client, preferably by telephone on a quarterly basis. These calls would merely ensure that the client is happy with the products and services that he/she has purchased, and it also gives him/her an opportunity to inform you of any changes required. Moreover, it is an ideal

opportunity for you to upsell.

“Show me where it says I can’t”

You will probably not be surprised to learn that as compliance officers we hear these words regularly. By now, you will have learned that South Africa, particularly in regard to the provision of both financial and accounting services, is moving away from rules-based regulation to what is known as principles-based regulation. According to publications made by the regulator, the reasons for this (inter alia) is that principles based regulation:

- Provides guidance that can be applied to the infinite variations in circumstances that arise in practice;
- Can cope with rapid changes of the modern business environment;
- Prevents the development of a mechanistic, ‘box-ticking’ approach to decision-making and the use of legalistic loopholes to avoid compliance with guidance; and
- Focuses on the spirit of the guidance and encourages responsibility and the exercise of professional judgment, which are key elements of the two professions.

By its own admission, the FSB considers itself to be principles-based in carrying out its supervisory work and that it is an outcomes-focused regulator firmly committed to a risk-based and proportionate approach. Indeed we have witnessed this many times when attending what the FSB refers to as ‘site visits’ of FSPs.

A good compliance officer will, when carrying out monitoring visits, review business practise in the same way as the regulator and write reports and make recommendations on this basis. In other words, the compliance officer will look at regulation in terms of what the regulator is trying to achieve, rather than what the regulation specifically states. For this reason, a compliance officer’s opinion will often conflict with the opinion of legal advisers, but the compliance officer’s job is to ensure that business models have longevity, and do not need to be amended every time there is a change to the regulation.

In simple terms, the regulator will look at the sales and maintenance procedure that you adopt, and decide whether or not that procedure correlates and aligns with the six TCF outcomes. It does not matter whether the procedure or part of the procedure is specifically prohibited or not, it will be the regulator’s opinion that matters.

Never accept vouchers, gifts or any form of reward from suppliers

In the previous paragraphs we concentrated on ethical conduct. In the next section we concentrate on acting in the best interests of every client. It stands to reason therefore that if you are in a situation in which you are confronted with multiple interests (financial, emotional, or otherwise), any one of which could possibly influence you to consider your own interests



over those of your client, you are facing a conflict of interest.

The following example puts this into perspective.

You have to meet targets set by your employer, you are commission orientated and have bills to pay at the end of the month. You have a client that may not need your products, but is an 'easy sale'. Do you close the deal or face your employer's (and your creditors) discontent?

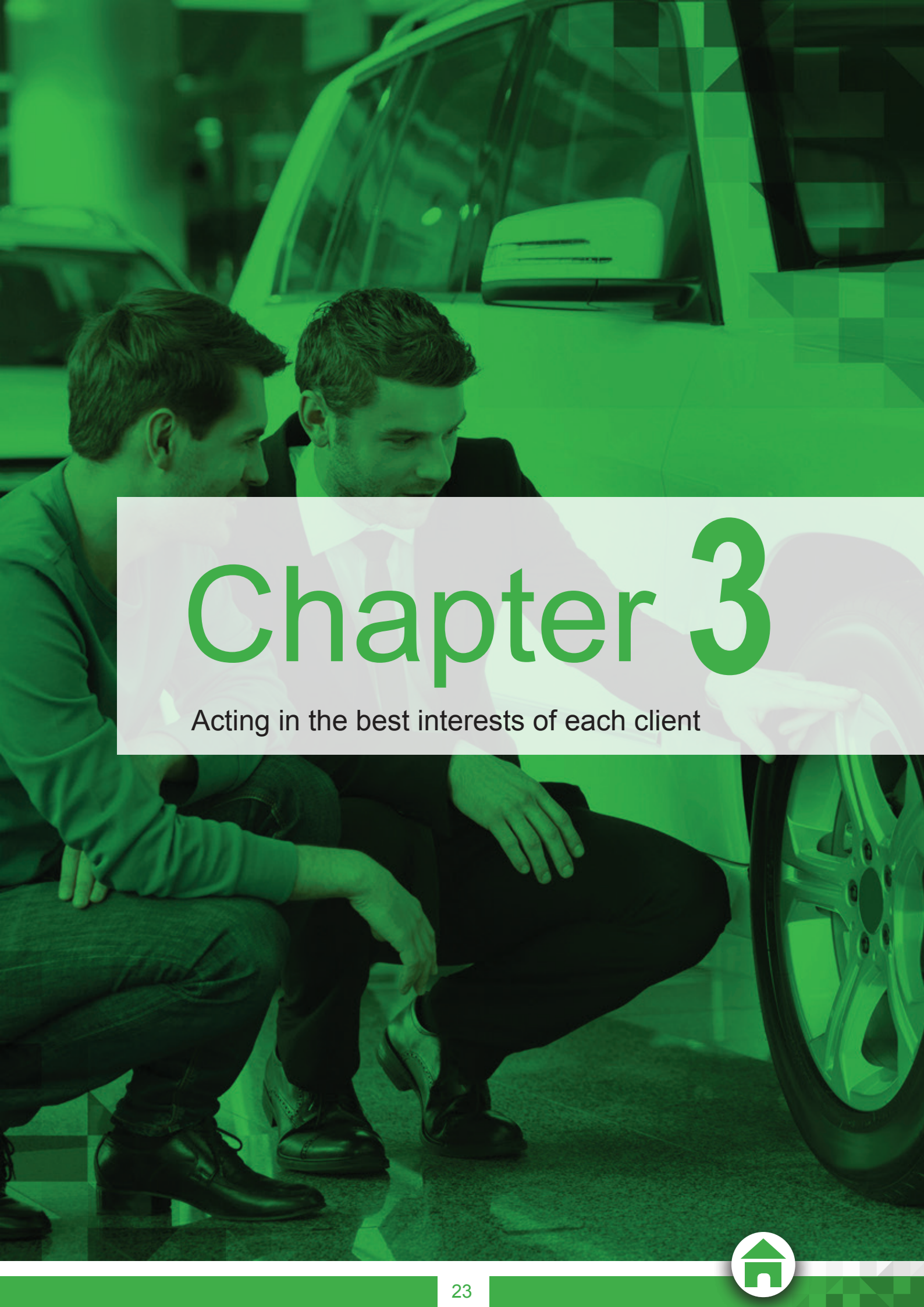
But probably the most common conflict arises when vehicle distributors offer you 'vouchers' for every extended warranty sold, particularly when you know that the extended warranty your dealership normally offers is superior. As compliance officers, we have identified circumstances where an F&I has been able to buy groceries for the entire family every month with vouchers supplied by the distributors.

How is it possible, in this day and age, to decline such temptation? Whose fault is it do you think, yours or the distributors?

The primary fault is neither. It has to lie with the dealership for allowing this to happen. It should be completely forbidden by the dealership for for any person, or even the dealership itself, to receive any form of compensation other than what is allowable in terms of the regulation – which, in respect of insurance products, is a capped commission rate. In fact this should form part of the dealership's culture in terms of treating customers fairly.

These handouts are no less than bribes and when accepted, fall under the heading of corruption. The last thing that you want to be accused of is being corrupt – this is the main complaint about our politicians and this perception, once gained, is almost impossible to reverse.

If you want to be seen to be totally ethical and trustworthy, you must never accept vouchers, gifts or offer of any form of financial benefit from any of your suppliers. _____

A photograph of two men in business attire crouching down to inspect a car, overlaid with a green tint and a geometric pattern. The man on the left is wearing a grey sweater and jeans, while the man on the right is wearing a dark suit and tie. They are both looking at the car's side mirror and wheel.

Chapter 3

Acting in the best interests of each client





Acting in the best interests of each client

The 'Twin Peaks' regulation and the 'Market Conduct Act', when passed and implemented will bring all financial services under one market conduct regulator. This will include very close co-operation between the National Credit Regulator and the new FSCA although at this stage we do not know to what extent this will impact on the processes followed by F&Is in their credit-granting duties or the manner by which banks can remunerate their agents.

For this reason, the process of advice-giving and disclosure requirements regarding credit is not included here, but when the exact powers of the new market regulator have been established and built into our laws, a revised edition of this guide will be published.

Suffice it to say that at this stage when providing credit services to clients, all requirements regarding ethical conduct as discussed in the previous chapter must apply as well as the following basic rules:

- You should work in conjunction with a number of banks in establishing whether the credit applied for is affordable, rather than merely sending an application to the banks and leaving it to them to make that decision alone;
- The interest rate offered should be the lowest possible (after consultation with a number of banks), and where you believe it is appropriate you should 'fight' with the banks to get a lower rate; the commission payable by the bank should have no influence on you in any way;
- You must undertake to make full and detailed disclosure pertaining to all the terms and conditions which must be explained in plain and understandable language, which includes all the rights of the client;



- The client must fully understand that as the vehicle is regarded as security for the loan there are implications regarding:
 - » Default in payment
 - » Ownership of the vehicle
 - » Responsibility for the condition of the vehicle
 - » Local and international licensing
 - » Use outside South Africa
 - » Selling the vehicle; and
- You must always adhere to the Code of Banking Practice.

Selling processes for which the FSB has concerns

Your function as the F&I is to render financial services to your customer, which in your case really means making sales. Before we provide the correct process that should be followed, it is important to consider those selling practises for which the FSB is concerned and which will be addressed in the coming months.

We have already discussed the necessity to eliminate all conflicts of interest, which in your case is primarily the manner by which you are remunerated (including the provision of vouchers and other incentives provided by suppliers) so there is no need to discuss it here. In general terms, the FSB has no problem with the payment of commission following successful sales, but those sales must be concluded in the interests of the client and never to meet sales targets.

Whilst the following may not apply to your dealership, nevertheless it is common in the motor sector to enter into a number of complicated relationships which compromise accountability



between the insurer and the F&I, often leaving the client unclear on the true cost of advice and who the F&I represents. This is particularly relevant where the F&I makes the sale, an underwriting manager operates for the insurer and an administrator is appointed to service claims. Motor dealerships often operate in this manner when they own a cell captive insurer. In addition 'leads' for motor comprehensive and life insurances are frequently provided to another intermediary whose function it is to contact the client and then place the insurance with another insurer. The responsibility for the provision of advice is rarely understood by the client even if all 'players' in the distribution chain have been disclosed. Often they are not disclosed at all.

The regulator has also criticised compliance officers who use 'tick box' compliance approaches which do not fulfil the intent of financial sector policy. In other words, some compliance officers' risk assessment tools support regulatory compliance but do not address fair client outcomes.

In many cases, the disclosure documentation handed to clients is designed to meet regulatory requirements but does not meaningfully address customer information needs. There is no clear indication as to which company is responsible for the services that have to be provided; this is the reason that many complaints arrive on the wrong Ombud's desk.

Finally, the FSB is very uncomfortable that many motor dealerships structure themselves to avoid the law by being a juristic representative on another's license leading to regulatory arbitrage and consumer confusion. This latter concern will be addressed by the authorities during the course of the coming year.

Understanding the difference between the giving of advice and the provision of an intermediary service

An intermediary service is simply putting two or more parties together. This does not include selling.

The Wikipedia dictionary definition is *"An intermediary (or go-between) is a third party that offers intermediation services between two trading parties. The intermediary acts as a conduit for goods or services offered by a supplier to a consumer"*.

In the motor sector, when rendering financial services, the intermediary service relates to the F&I placing a client's insurance policy or policies with an appropriate insurer. Whilst it will certainly be the F&I's responsibility to explain the insurance covers and their conditions and exclusions (the good the bad and the ugly) under no circumstances can an *'intermediary service'* include any form of advice. Words such as "I recommend", "I suggest" and "I would" cannot be used while providing an intermediary service if the F&I is only registered to provide intermediary services. This is the realm of advice.

In simple terms, if an F&I is registered only to provide an intermediary service, no selling tools can be applied. It will also be necessary for the F&I to mention clearly at the outset that

he/she is not allowed to provide any form of advice, guidance or recommendation, which confirmation must be included in the written documentation.

Indeed it is the intention of the FSB in the not too distant future to 'cap' commissions at a lower level for those who only provide an intermediary service.

Do you really know how to sell insurance products?

It is a misconception to think that your duty is to explain your product offerings in such a way as to encourage a client to buy them. In fact this is exactly what you must not do. Moreover, only the most aggressive salespeople get good results from this approach, sometimes causing considerable damage to client relations.

The easiest way to close insurance deals is to go about the sales process exactly the way the FAIS General Code of Conduct demands.

Imagine someone knocking on your door tonight and asking if you would like to buy insurance. Your reaction will be the same as everyone's, that is "Thank you but I have enough insurance". If everyone's response is the same, how can we explain the existence of many thousands of successful insurance representatives that are doing very well indeed?

The answer is simple. They gather information about the prospect's objectives and future plans, and then identify products that will work in harmony with those objectives and plans. This is true for both long and short term insurance sales.

All you have to do is ask a successful insurance salesperson for tips and he/she will tell you that the most important part of any sales process is gathering information. It is this information that provides the selling tools as well as the information needed to overcome objections. In your case, gathering the appropriate information is the easy part because your client will be very happy to talk to you about the vehicle being purchased.

A simple example is by asking your client *"Are you one of those people that would like to keep the new vehicle in showroom condition?"* Whatever the response, one of that client's objectives has been obtained, which, if positive, will form the base for selling small damage protection insurance (often referred to as cosmetic damage).

Similarly, a simple question as to who will use the car will determine whether a client's objectives would be to keep the car in the family should some disaster befall the client.

This whole process of gathering information, if expertly carried out, will only take a few minutes yet will provide you with valuable information about the client's needs, all of which can be used to close the sale.

The General Code of Conduct not only supports this approach, but demands it.



Determining the advice that you will give to the client

The first part of Section 8 of the General Code of Conduct makes the advice giving procedure very clear. It states that:

“Prior to providing a client with advice, the advisor must:

- 1. Take reasonable steps to seek from the client appropriate and available information regarding the client’s financial situation, financial product experience and objectives to enable the advisor to provide the client with appropriate advice;*
- 2. Conduct an analysis, for purposes of the advice, based on the information obtained; and*
- 3. Identify the financial product or products that will be appropriate to the client’s risk profile and financial needs, subject to the limitations imposed.”*

Insurance is seen by the authorities as one of the numerous instruments which can assist in eliminating, or at least mitigating, poverty in this country. Therefore, it is in everyone’s interest for you to minimise and where possible eliminate your client’s financial exposures by encouraging the purchase of insurance instruments.

However, this must not be achieved at the expense of affordability and care must be taken to ensure that the client is not ‘oversold’. This must be your first consideration, and indeed relates directly to the first condition as outlined in the above code. Most of the financial information required to determine affordability will already be in your possession because it is likely that a credit application has been completed. A quick glance at the ‘surplus’ will determine whether the client can afford the value added products (VAPS) in your armoury.

You will need to have a strategy in place should you decide that the client cannot afford the products that the client needs. Whatever the strategy you adopt, if affordability is an issue you will have to explain all the exposures that the client will incur and will have to carry for his/her own account if the sale of the vehicle is to proceed. It might be more appropriate for you to ascertain what is affordable and encourage the client to downgrade.



Assuming affordability is not an issue you will move to the next stage, which is ascertaining the extent to which your client is familiar with insurance products, specifically credit protection products. Explanations will take a different form for clients that have no idea about insurance.

Do not fall into the trap of assuming that the client's level of education and sophistication is such that no full explanation is required. Simple questions like "Have you bought a car on credit before?" and "The last time you bought a car did the F&I explain the risks you are taking on and how you can avoid them?" will not only interest the client, but the answers will help you to ascertain the extent of explanation required.

Having established in your own mind exactly how you will be explaining your products, you move to the third and most important phase, the gathering of information that will determine which products you will offer.

The ideal result of the 'information gathering' part of the process is for you to be in possession of a list of your clients objectives. Imagine that after your meeting, you have listed the following objectives in your record of advice:

- Client will use the vehicle for the family and it will be the primary form of transport;
- As it is the only reliable vehicle in the family, licensed children will also make use of the vehicle;
- The instalment must be paid in the event of retrenchment or unemployment;
- The client wishes to pay over as long a period as possible;
- Client intends to keep the vehicle for considerably longer than 5 years because it will be 'handed down';
- Client intends to travel approximately 15000 kilometers per year;
- Client would like to keep the vehicle in showroom condition; and
- Client would not like to face unexpected high costs in the event of accident or repair.

With this list of objectives, it is easy for you to decide which products the client really needs, and those he/she does not. The selling process should be very easy indeed.

An F&I will often argue that a client needs all the products available. This is not so. For example, it is not uncommon for a bachelor with no dependents to buy a car. Not only is it likely that the car will be disposed of in the event of death, but moreover the bachelor may have group life and accident covers in place anyway. In this instance, it is unlikely that credit life cover will be required, however the client might be concerned about loss of income due to retrenchment or temporary disability.

But on the other hand, what if the record of advice was to identify the reverse? Examples could include:

- Vehicle will not be used by any other family member as it is the client's "toy" and is secondary;
- Client intends to pay it off over as short a period as possible;
- The client intends to pay a large deposit; and



- Client does not mind the vehicle getting minor scratches and dents over time as it is expected.

Does this mean that you have sufficient information to offer product advice? Definitely not. Objectives like these will require further interrogation.

The list of objectives, once completed, will clearly determine whether a client needs or does not need a product in your armoury. Whatever the client finally decides, the closed sale should be clearly linked to the objectives obtained.

The second part of Section 8 in the Code of Conduct demands that you conduct an analysis based on the information obtained. In other words you use the information you have gathered to identify the products that you know your client should purchase, simply because they relate directly to his/her needs and objectives.

You will by now realise that if there is a complaint, the FAIS Ombud will want to see those objectives to ascertain whether or not you did a professional job as financial advisor.

Make sure that the client fully understands every feature of the cover (the good the bad and the ugly), the exact services that will be provided and the company that will be providing those services

This part begins the actual selling process. You have gathered all the information you need but before you start you must first decide that you are really going to be honest and truthful. It helps if you imagine and position yourself in the shoes of the client. How would you feel if you were the client?

In recommending products (making the sale), you must take reasonable steps to ensure that the client understands your advice and that the client is in a position to make an informed decision. As part of your daily routine you must continually consider what can be done to better help your client to make capable, confident and informed decisions

It is at this stage that all salient features must be disclosed, so you must have a thorough knowledge of the products you are recommending. All the important exclusions and conditions must be fully explained, and examples provided as appropriate.

It is likely that your dealership has appointed another party to administer the products and to provide the after sales services. In some cases, there may be more than one administrator involved. Where this is the case it is important for you to inform the client who these partners are and their exact responsibilities so that if there is a complaint, the client knows who to direct the complaint to. Remember, it is you that has given the advice, so any complaint that relates to the quality of advice must be dealt with by you or someone at your dealership.

The most common financial services complaints that have to be addressed by the motor

industry relate to poor performance of warranties, and where you sell these instruments it is very important for the client to know exactly what is covered and the limitations thereof. So often we have seen complaints whereby the client has been informed that the repair is one of 'fair wear and tear' and not covered by the warranty, or has a limited benefit.

It is vital that these limitations are fully explained by you at the point of sale. To defend a FAIS complaint, you will not be able to rely on the client to have read the policy, or signed a statement that full explanations were provided. Evidence that you explained everything in full detail must be on record, and available for presentation to the FAIS Ombud or the regulator when called for.

Occasionally you should 'test' whether or not your recommendations really match your client's needs and objectives, and this is easily done by asking an F&I colleague to look at the list of a client's objectives that you have written down and asking your colleague to identify the products that he/she would have recommended. This double check serves two purposes, first it will give you more confidence and secondly it will provide your dealership with some of the management information required to ensure that customers are being treated fairly.

Dealing with a client that will not provide you with the information you need

There are always clients that are really not interested in buying insurance, often because they have had a bad experience in the past. In addition, some clients will refuse to provide you with all the information requested. You might even be unable to conduct an analysis because you are given insufficient time.

Where any of these situation arise, it is your responsibility to ensure that the client clearly understands that:

- A full analysis could not be undertaken;
- There may be limitations on the appropriateness of the advice that you have given; and
- The client should take particular care to consider whether your advice is appropriate considering the client's objectives, financial situation and particular needs.

The reasons why a proper analysis could not be undertaken must be noted on the record of advice.

Dealing with a client that decides not to follow your advice

Where your client elects to buy products that differ from the products you recommend or the client decides not to follow your advice, or elects to receive more limited information or advice than you are able to provide, it is your responsibility to alert your client to the clear existence of the risks he/she will be taking.



The reasons why the client decided not to follow your advice must be clearly shown on the record of advice. Statements such as “I’m not interested” are not adequate, and you should try to encourage your client to be more explicit. For example, in terms of the credit life, one sentence descriptions will suffice, examples being:

- It’s already part of my financial planning;
- I’d like to buy the cover elsewhere;
- I don’t like all the exclusions/conditions;
- The age restrictions are prohibitive.

Do your products really meet the needs of your clients?

You have already learned from experience that to close deals your selling strategies have to be top class and your products have to be of optimal design and appropriately priced. Moreover every marketing company will tell you that to be successful, you and your product must ‘stand out from the crowd’ and you have to find a way to achieve this.

In other words, you must have a product that the client really wants, and you must know how to sell it. Without these ingredients, you lose the key business imperatives and, of course, income.

The current economic environment is driving dealerships to work harder than ever before to remain competitive and profitable. Whether you like it or not, as an F&I you are at the forefront of this drive. Dealerships that invest time in ensuring that their products ‘match’ the demands of their customers will find themselves with greater sales volumes and more satisfied customers because of proper product fit. The consequences for dealers and their insurance suppliers that neglect product innovation are dire: they will fail to get products out to their clients and will lose business, as well as market share.

Banks are currently taking the initiative to use every instrument in their armouries to attract business, more often than not at the expense of loss of income to dealerships.

That’s where you fit in.

The ‘treating customers fairly’ culture demanded by the regulator embraces this very issue, and indeed requires all insurers to revisit, and where necessary, to redesign their product range. Outcome 2 states *“Our products are designed to meet our customers’ needs, and we target our customer groups accordingly”*

Whilst on the face of it this is an insurer issue, it has to include you as the distributor. Product configurators traditionally focus in three areas, these being product design, product testing, and product management. How is an insurer going to achieve any of this without your guidance? You are the one selling (or failing to sell) and you are the one that knows what has to be done to make sure your products are more attractive than your competitors’. So often, blame is placed on price, and although price has a major bearing on all sales,

nevertheless it is not the only shop window that you have. Selling on value, not price, involves a balance of confidence, personal rapport, and doing your homework consisting primarily of product specialisation and knowledge. Studies in the USA have shown that only a third of all people buy on price, the other two thirds look for value. Expressing value, of course, is a sales skill, with emphasis on how your dealership stands out from the others. Explaining to clients about the history of your dealership, the number of satisfied customers you have and the offer of references are all tools that you can use to help build confidence in your advice. Building up your success stories by documenting testimonials from past satisfied customers is one of the most useful tools you can use.

But these selling techniques and strategies will be useless if your products do not meet your clients' needs. With very little thought you will already be able to identify a number of ways that your products can be amended to make them more attractive. Perhaps there should be different warranties for different types of vehicles (if not already in place), or level term life covers in place of decreasing term products. Perhaps your top-up covers have too many restrictions. Is it necessary to separate covers for retrenchment and unemployment perhaps?

Your recommendations must be frequently communicated to your product suppliers who clearly require much more collaboration and interoperability with you than in the past; and indeed vice versa.

It is you, and only you, that can inform them of your clients' needs. This very valuable information must be shared on an ongoing basis whether during one-on-one regular meetings with them, or electronically. It may be necessary for you to liaise through your manager, but whatever procedure you adopt, the result must be better products, better designed and more sold.

Dealing with other cultures and poorly educated clients

The first thing that you must take into account is that other cultures are likely to have different standards regarding touching, eye contact and personal space. Someone standing too close or not looking you in the eye could merely be following his/her own cultural standard and not trying to offend. In addition, someone of a different culture will probably speak a different first language so you must be careful to choose your words carefully.

The best way to communicate with a client that has a different first language or has a poor understanding of your language is to make use of an interpreter, although as compliance officers we have experienced circumstances where the interpreter has given all the wrong facts. If you are going to make use of an interpreter make sure that the interpreter really understands the terminology you use. Insurance and finance has specific terminology of its own.

When using an interpreter talk directly to the client - not to the interpreter. You don't need to ignore the interpreter entirely; just make sure to focus your interaction with the client. When



there is an interpreter, the client will look at the interpreter as you are talking. It might take a little extra effort to remember to face the client rather than the interpreter.

In all probability, you will have to deal with the person without an interpreter, but fortunately the ability to communicate with people who speak a limited amount of English or Afrikaans is actually a skill that can be developed over time with practice. Whether you deal with these clients often or rarely, there are a couple of points that will help you to communicate more effectively and smoothly. There is a website which provides some excellent guidance on this subject and it is well worth making the effort to look it up. The address is <http://www.wikihow.com>

Exaggerated pronunciations will not help your client, nor will speaking louder; indeed both these may cause more confusion. You might even find it useful to pronounce some words as your client would, particularly if the proper pronunciation is very different from your clients'. Nor does it make you easier to understand by using baby talk. In all probability this will confuse your client and may even give the wrong impression about your own level of competence.

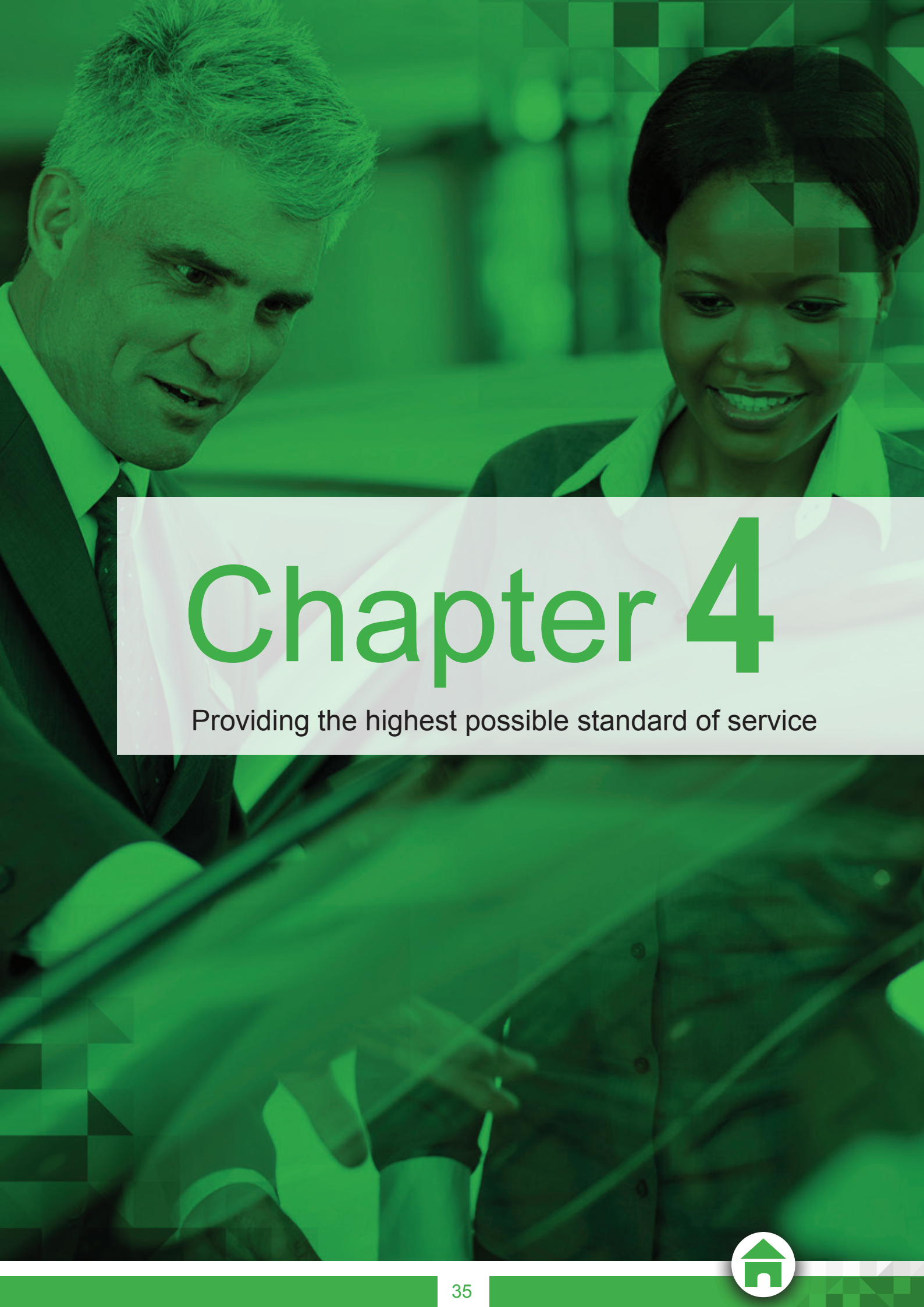
When possible, use simple words instead of ones that are complex. The more basic a word or phrase is, the better the chance that it will be understood. For example, don't use the word 'exclusion'. Rather say that the client won't be paid if certain things happen. Similarly the word 'condition' in an insurance policy is very different to the meaning of 'condition' when the sales person sold your client the car.

As much as possible, avoid using slang or hesitations ('er', 'like' 'etc') because if your oral communication includes this type of filler, comprehension is more difficult. If asked to repeat something, repeat it as you said it the first time. It could be that your client simply didn't hear you. If he/she still doesn't understand, however, change a few key words in the sentence. It may be that he/she couldn't understand one or two of the words, particularly when explaining insurance covers. Also repeat the whole sentence and not just the last couple of words. It's time consuming, but it helps prevent confusion.

Listen and try not to form your response while the other person is talking. Wait until the person has finished so that you can clarify if needed and give correct information based on all that person has said.

Remember, the more relaxed you are the more your client will also relax and consequently the more you will be in control of your communication. In other words, treat that person as you would any other individual, always acting openly and fairly and with equal respect.

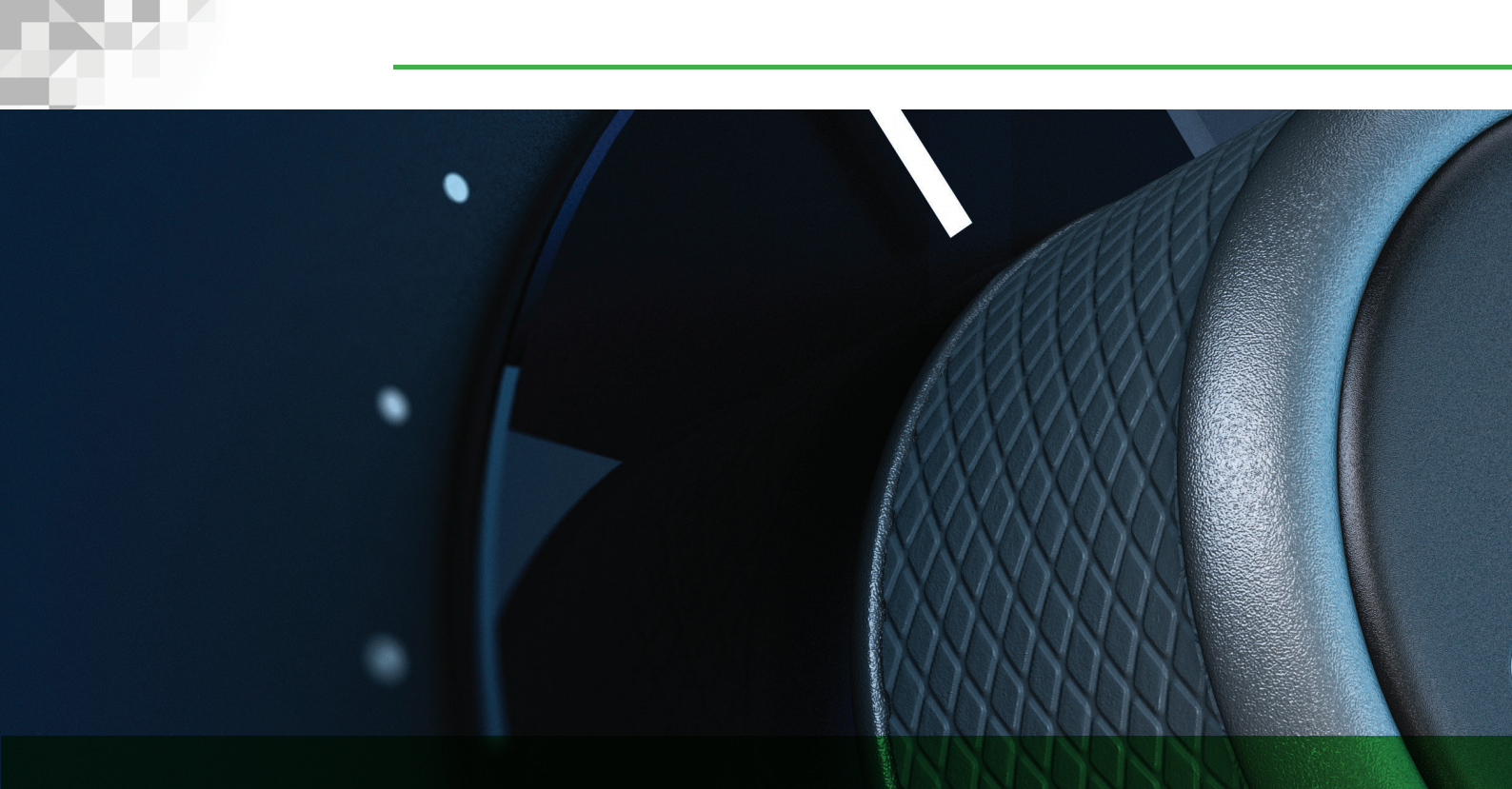
Finally, it is also your duty to challenge and report unlawful or otherwise unfair discriminatory behaviour and, if not already in place, encourage your dealership to produce and promote an equality and diversity policy setting out how the business plans promote equality, diversity and inclusion, prevent discrimination and deal with any instances of discrimination which might happen.



Chapter 4

Providing the highest possible standard of service





Providing the highest possible standard of service

Throughout this document we have made reference to the fact that the service you provide to your clients is crucial to your business success. For many clients, after-sales service is what makes one dealership stand out from another, often more than product or price. Good client service can attract new business and will create a loyal and returning client base.

In effect, this chapter is a summary of all the other chapters. Client service is all about expectation. A dealership that offers a fast response or a personal service is setting up an expectation. If you do not fulfil your promises, your clients will be disappointed.

Have you ever thought about what you actually promise your clients? Take time to go through all aspects of your sales strategy and identify your selling points. Are your clients' expectations being met or exceeded? In the motor sector (not within your department but it does impact on you) it is common for the salesperson to promise delivery within a certain amount of days. More often than not, the client has to wait longer and is disappointed. The best way to wow your client is to under-promise and over-deliver. If your dealership knows it can deliver in five days, why not promise seven - your client will probably be pleasantly surprised.

This part of your dealership's activities may well be outside your control, but you are in a senior position and you do have influence. The income you make for your dealership (sometimes referred to as second gross) is more than meaningful and any recommendation you make will be considered.

In respect of the financial products sold by you personally, it is likely that your dealership has appointed an outside company to provide the after-sales services, including making appropriate changes to the policies and the handling of claims, but it is your responsibility to ensure that those services are provided at the level promised by you. After all, during



the selling process, in the eyes of the client you made certain promises when categorically stating how the products will perform in given circumstances and the service levels the client can expect.

Despite the fact that you will also have made it clear that other companies will be responsible for dealing with certain aspects of service, nevertheless your client will look to you for help when needed.

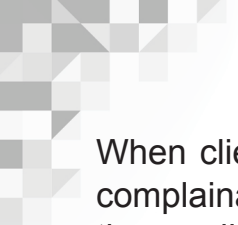
Your promises must be kept and if, in the eyes of your client, your promises have not been kept, your client is fully entitled to lodge a complaint. But if you do receive a complaint do not view this as bad. It is how you handle complaints that can determine whether you lose business or actually improve customer loyalty.

Where possible, handle the complaint yourself. If it is a complaint relating to a service that has been outsourced, instead of referring your client to that supplier why not try to work with that outsourced supplier on your client's behalf? Naturally there will be times, depending on the type of complaint, where this will not be possible but even in these cases you should keep a 'watching brief' on the complaint and make sure it is properly addressed.

Have you ever thought that complainants might actually be doing you a favour? They are giving you valuable feedback for nothing and are showing you how to improve your service. More importantly, if you impress those clients with the way you handle their complaints, they will become advocates for your business.

It stands to reason that when a client complains, you must be respectful and sympathetic, even if you think the client is wrong. What is wrong with thanking the client for complaining and to apologise? Also, if you act quickly you will be proving that you take complaints seriously and at the same time you will reduce the time the client spends unhappy.





When clients complain, always ask them what they want. Many dealerships assume that complainants are seeking a financial solution, such as a refund or compensation when all they really want is an apology. Allow clients to give you all the facts so that they can get it off their chest and then you can provide the most suitable solution.

Every good business has set up a complaints procedure. In the case of financial products this is actually demanded of you in terms of the financial services laws. To demonstrate commitment to TCF Outcome 6 (see appendix for the actual wording), if your dealership has not already done so, it is necessary to develop, implement, monitor and internally report on an appropriate and effective internal process to manage customer complaints. In addition, your dealership is expected to use customer complaint information as an important source of management information to measure your delivery of the full set of TCF Outcomes.

In your company policy, there will be a set of standards to which you must comply; and your company policy must address the minimum requirements laid down by law. You must read these standards and comply with them, not just to act within the law, but to be able to provide the services you have already promised your clients.

This is what client service is all about. Really good client service gets people talking. If you go above and beyond the call of duty for your clients they will tell everyone they know and you will get wonderful word-of-mouth recommendations. In conclusion, pay attention to details. Follow up calls or emails quickly. If the client has a problem, do your best to solve it.

With social media so prevalent today, you cannot afford to do anything less.

Appendix

The Six Tcf Outcomes

Treating Customers Fairly (TCF) is an outcomes based regulatory and supervisory approach designed to ensure that specific, clearly articulated fairness outcomes for financial services consumers are delivered by regulated financial firms. Firms are expected to demonstrate that they deliver the following 6 TCF Outcomes to their customers throughout the product life cycle, from product design and promotion, through advice and servicing, to complaints and claims handling – and throughout the product value chain:

The six TCF Outcomes comprising the TCF framework are:

Outcome 1:

Customers can be confident they are dealing with firms where TCF is central to the corporate culture;

Outcome 2:

Products and services marketed and sold in the retail market are designed to meet the needs of identified customer groups and are targeted accordingly;

Outcome 3:

Customers are provided with clear information and kept appropriately informed before, during and after point of sale

Outcome 4:

Where advice is given, it is suitable and takes account of customer circumstances

Outcome 5:

Products perform as firms have led customers to expect, and service is of an acceptable standard and as they have been led to expect

Outcome 6:

Customers do not face unreasonable post-sale barriers imposed by firms to change product, switch providers, submit a claim or make a complaint



Compiled by



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