By Colin Habberton

INVESTORS VS CONSUMERS

What pension funds can learn from Sanral's e-toll battle

In a landscape being shaped and defined by disruption, the financial services sector needs to consider breaking down the barrier between 'investors' and 'consumers' in order to move into the future.

The numerous #mustfall campaigns of last year provide a vivid reminder of the inspiration, hype and impact of popular opinion converging towards a common cause. Icons and issues, old and new, faced the fury and force of groups of people translating their frustrations into action.

Looking back, we have one less statue, frozen university fees and a country whose president is not immune from being the subject of an uprising. There are mixed views regarding whether these campaigns achieved their objectives and, more interestingly, if and where they might flare up again. Despite the debate, they were all encouraging signs that we live in a democracy where 'the people' still have the power to influence social and political change.

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Disruptive dynamics

The phased implementation of the 'Twin Peaks' legislation has kept industry in a constant state of flux with what seems to be a relentless flow of regulatory changes to protect consumers and professionalise the sector in South Africa. These changes have certainly played a disruptive role in the lives of financial professionals and the businesses they serve and lead. The FAIS Act has spawned a host of new compliance experts, training, examinations and costs over the past decade.

Amidst these new rules of our game, the more recent focus has been the implementation of the Treating Customers Fairly (TCF) policy. As the name suggests, this aspect of the new regulations demands financial service providers to adopt an attitude to their clients that proactively takes into account the way in which they might understand the substantive and procedural details of the financial products and services they seek and purchase.

Where worlds collide

Over the past few years, TCF has become increasingly acknowledged and applied to financial services processes and products.

A question worth asking is whether customers *themselves* are aware of the extent to which the new regulations governing our industry are weighted in their favour. More importantly, should customers reach a full understanding of their rights and take action, how that might disrupt the core of the savings and investment landscape.

The demands of the TCF framework go far beyond the process of getting clients to sign acceptance for advice offered. A topical example to illustrate what I believe is the prevailing existence of two 'worlds' in the savings and investment industry is the controversy surrounding e-tolls and the Sanral bonds that underpin them. The one world is what is referred to in the media and common industry parlance as 'investors'. The other world is 'consumers'.

In October last year a new issuance of Sanral debt was oversubscribed by 'investors' supported by a new plan devised by Sanral to enforce the payment of outstanding fees and fines from 'consumers' by integrating e-tolls with vehicle licensing and registration systems. By January this year, the advocacy group Outa had collected more than 70 000 signatures from the public in protest of the implementation of Sanral's aforementioned plan. At this point in public discourse, there is little cognisance that the 'consumers' and 'investors' might well be the same person. The 'investors' purchasing Sanral debt include the PIC and other asset managers, based on the expected return of that financial instrument in lieu of their investment mandate from their clients, the owners of investable assets. To a large extent, the ultimate sources of capital in South Africa come from pension funds and pooled retirement savings of individuals.

Now, one can only surmise how many of those individual investors, albeit indirect, are the same people signing the petitions to end e-tolls. They unknowingly are funding the object of their discontent through their retirement savings while being forced to pay the fees and penalties to meet the expectation of the institutions that manage their assets. The complexity of this conundrum is amplified when you consider the effect of a possible default on Sanral debt and how this might contribute to further downgrades of the asset itself, and further ripples that could affect our sovereign debt status and currency. As 'consumers' take action against e-tolls they inadvertently undermine the returns on the long-term investments of their hard-earned savings.

If the TCF principles were strictly applied to this example, could the FSB hold financial professionals accountable to treating their customers fairly? It would be difficult to defend the fairness of investing in the likes of Sanral bonds without their customers' knowledge – in particular the individuals that supply the pools of the capital they manage.

Power to the people

We live and work in a world that is becoming increasingly transparent due to the ease of access and sharing of information. Consumers demand convenient, cost-effective access to products and services. The likes of Uber and Airbnb have disrupted entire industries, while investors in these new business types reap the benefits of these innovations. The savings and investment industry is not immune from similar disruption and new opportunities.

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The summary characteristics of disruptive change, as described by experts, are surprise, speed and significance. Kodak did not foresee and appropriately adapt to the emergence of digital imaging; Encyclopedia Britannica did not survive the rise of Wikipedia. Their respective collapses may have seemed quick to observers, perhaps even their investors, but the processes that led to the change took place slowly but surely in a direction driven by customer needs and choices.

A lack of transparency in the investment decision-making process is likely to be challenged by increasingly informed and demanding customers. Crowdfunding platforms and other investment innovations are breaking down traditional barriers and spreading across the world. Our regulator's TCF principles require financial services providers to proactively increase the level of transparency to customers regarding the ways and means of our industry. These forces – from the demand and supply side of our industry value chain – are consistent and appear to be converging.

Our customers are the source of our survival. They have the power to radically change the way we do business. The best response may be for us to pierce the veil between 'investor' and 'consumer' and invite those same customers to play a part in defining the future of our industry or we might be the next subject for a #mustfall. ■

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