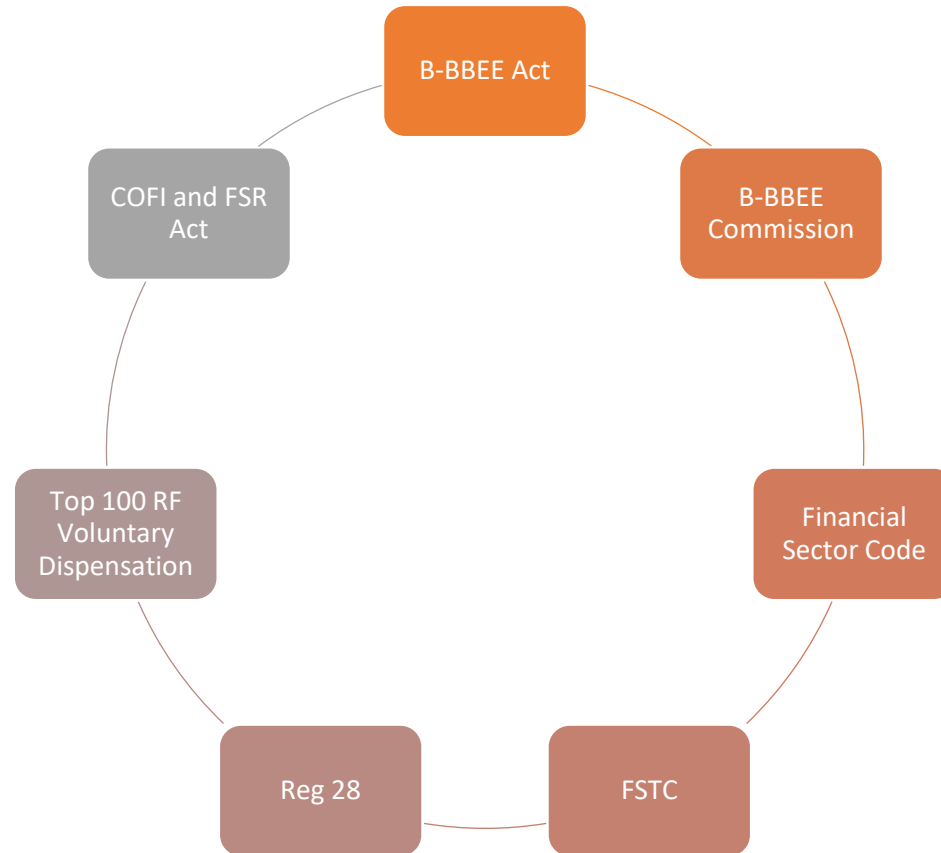




**2022 PENSION LAWYERS ANNUAL CONFERENCE**  
**THE FSCA'S DRAFT TRANSFORMATION STRATEGY**  
Nondumiso Ntshangase



# OVERVIEW





# B-BBEE Act

Overarching legal framework for promoting and measuring B-BBEE

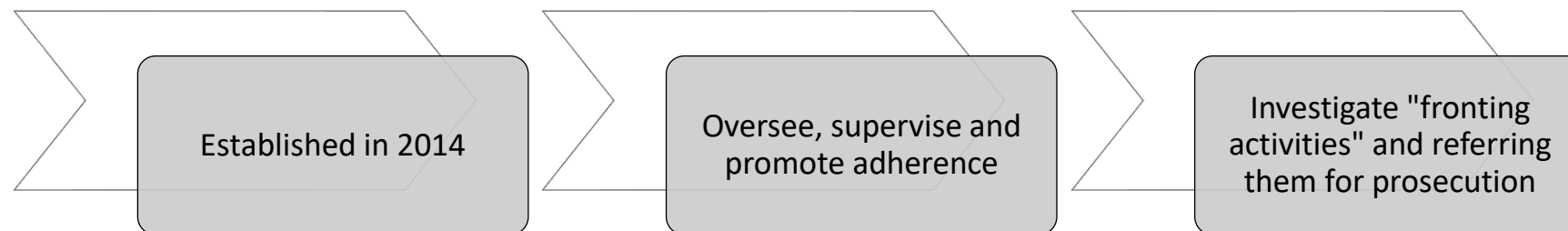
Aims to address the legacy of apartheid and promote the participation of black people in the economy

No positive obligation to achieve a particular B-BBEE status level

Establishes the B-BBEE Commission



# B-BBEE Commission





# Financial Sector Code

Gazetted in 2012 and revised and gazetted in 2017

Resulting from interaction between the financial sector trade associations, ABSIP, Organised Labour, Community and Government.

Applies to retirement funds

Provides for a voluntary dispensation for top 100 Retirement Funds including umbrella funds



# Financial Sector Transformation Council

Established to enforce the FS Code

Not mandated to act against FIs who fail to achieve targets of the FS Code, or report on compliance.

Some of its objectives are to:

- engage policymakers to ensure that legislation enables transformation;
- engage with FIs to promote understanding of the FS Code and to provide support for compliance;
- publish an annual performance report which is reflective of the status of the sector's transformation;



# Regulation 28

Funds must consider ESG criteria and B-BBEE as part of their supplier selection processes.



# VOLUNTARY DISPENSATION FOR TOP 100 RETIREMENT FUNDS INCLUDING UMBRELLA FUNDS

- Large RFs compile and publish annual score cards for preferential procurement and management control elements of the Amended FSC
- Report annually on the proportion of fund liabilities attributable to black male members and black female members

- Disclose details related to accredited SAQA approved training spent on trustees and executive managers such as principal officers and other staff
- Member education initiatives, where applicable, should also be disclosed both in terms of number of members trained and amount spent relative to size of membership

- The B-BBEE annual reporting by retirement funds should include a narrative on the B-BBEE score achieved and future plans for improving the score





# Retirement Fund B-BBEE Scorecard

Ownership N/A	Management Control 20
SCORE CARD	
Skills Development/Trustee Education N/A	Preferential Procurement 80



# Financial Sector Regulations Act (current)

An object of the FSR Act is the establishment of a regulatory and supervisory framework that promotes transformation of the financial sector

## 7. Object of Act

(1) The object of this Act is to achieve a stable financial system that works in the interests of financial customers and that supports balanced and sustainable economic growth in the Republic, by establishing, in conjunction with the specific financial sector laws, a regulatory and supervisory framework that promotes:-

*(g) transformation of the financial sector*

“**transformation of the financial sector**” means transformation as envisaged by the Financial Sector Code for Broad-Based Black Economic Empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);



# COFI Bill and amendments to FSR Act

Objective of COFI Bill is to **promote transformation of the financial sector**

Promoting transformation is made an **explicit function** of the FSCA through amendments to the FSR Act

The COFI Bill requires FI (retirement funds) to have a **transformation plan** in place to meet its commitments that it has undertaken in terms of promoting transformation of the financial sector in line with the requirements of the B-BBEE Act and the Financial Sector Code, and must take all reasonable measures to implement those plans

The FSCA can **issue directives** in relation to transformation plans and clarifies that the FSCA may use its **supervisory and enforcement powers** to ensure that a financial institution's governance frameworks, including in relation to transformation, are adequate and adhered to.

# THANK YOU

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