

ABSTRACT

In 2011, National Treasury proposed the introduction of the Twin Peaks regulatory model for the South African financial sector. The adoption of this model will significantly change the regulatory landscape in South Africa. A growing body of mainly government generated literature focuses predominantly on the introduction of the Twin Peaks regulatory model and concentrates on the structure of this model rather than on the details of the model's two peaks: prudential and market conduct. Market conduct regulation is understood in broad terms, however only limited studies are available as to the details of this peak. The study provides discourse as to the history and the role of the state (with specific reference to the Lockean framework) and further examines the various economic theories of regulation which provide the justifications for regulation. A brief discussion of the Twin Peaks system provides the necessary background and contextualisation. The purpose of this study is to establish the origins, development and nature of market conduct regulation in four insurance markets, including the United Kingdom (UK), European Union (EU), United States (US) and South Africa, with specific reference to the South African short term insurance market. This is achieved by providing a narrative of the development of insurance regulation in the four markets. From this narrative, the development of market conduct regulation is specifically distilled and the applicability of the various economic theories of regulation is sporadically assessed. The findings indicate that traces of market conduct issues can be detected at various periods in the nearly 500 year history of the global insurance market. However contemporary market conduct regulation evolved in the mid-1900s in the US and between 1986 and 2000 in the UK. In this regard, market conduct regulation was pioneered in these two markets. Furthermore, the study argues that contemporary regulatory developments in the UK have seen the market gradually transition away from regulation that historically was underpinned by the Lockean framework to a new framework. The study does not define or critique this new framework. This may be an avenue for further and more focused research.

Keywords: development, European Union, history, insurance, market conduct regulation, origins, regulation, South Africa, Twin Peaks, United Kingdom, United States.