



Overview of proposed amendments to the Regulations and PPR's

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Recap

- Amendments to LTIA/STIA Regulations and PPRs will be given effect to in two tranches –
 - Tranche 1: gives effect to certain conduct of business regulatory reforms that cannot be deferred to the enactment of the proposed CoFI Bill
 - Tranche 2: to ensure alignment with the Insurance Bill



SCOPE OF TRANCHE 1 CHANGES



Tranche 1

- Tranche 1 amendments will include a number of conduct of business reforms that can be given effect to within the existing regulatory framework, including:
 - the ***Retail Distribution Review***, specifically the *Status Update: Retail Distribution Review Phase 1* published on 10 November 2015 (“RDR Phase 1”)
 - the ***Complaints Management Discussion Document*** published in October 2014 and the *Complaints Management Thematic Review* published on 17 October (“the Complaints Management Proposals”)
 - draft **amendments to the *Binder Regulations*** that were published on 11 July 2014 for public comment until 1 September 2014, the finalisation of which was deferred until the publication of the detailed Retail Distribution Review Phase 1 proposals (“proposed Binder Regulations”)



Tranche 1

- certain matters identified in the consultations on the *Technical Report on the **Consumer Credit Insurance** Market in South Africa* published on 3 July 2014, which signalled concerns with respect to consumer abuses in the consumer credit insurance market (“**CCI proposals**”)
- the draft *Information Letter on **Advertising, Brochures and Similar communications*** published on 13 December 2013 for comments by 28 February 2014 (“**the Advertising IL**”)
- appropriate minimum requirements for **claims management** (“**Claims Management Proposals**”)
- **additional critical protections for policyholders** identified through supervision (principles to inform premiums and premium reviews, minimum data governance requirements and negative option marketing and the like)



Tranche 1

- alignment with the International Association of Insurance Supervisors (IAIS) **Insurance Core Principles**, November 2015, specifically ICP 19 (“**ICP 19**”)
- certain **proposals of the Ombud for Long-term Insurance and the Ombud for Short-term Insurance** relating to improved policyholder protection (“**Ombuds’ proposals**”)
- certain matters identified in the **proposed Declaration of undesirable or irregular business practice – Charging of fees by insurers in addition to premiums** published in May 2014 (“**Proposed prohibition on charging additional fees**”)
- **alignment, in certain respects, with the Financial Advisory and Intermediary Services Act, 2002** (“**FAIS Act alignment**”)
- **closing of regulatory gaps** identified in existing provisions, effect improvements to certain provisions and effect technical amendments to clarify the intent and purpose of certain provisions



Tranche 1

APPROACH

- Not intended to constitute a comprehensive review of existing Regulations
- PPRs added to significantly, but a further, more comprehensive review will form part of the broader review of all CoB legislative frameworks across various sectors regulated by the FSCA as part of Phase 2 of Twin Peaks and the development of the CoFI Bill

TIMING

- Tranche 1 reforms are planned to take effect in the 2nd quarter of 2017, with appropriate transitional provisions where necessary
- Envisaged that the Regulations and PPRs will be promulgated / made before this date to afford legal certainty - will in turn afford insurers sufficient time to prepare for implementation



TRANCHE 1 AMENDMENTS TO THE LTIA REGS



Tranche 1: LTIA Regulations

- Part 3A and 3B (Limitation on remuneration for services as intermediary) has been amended to –
 - align the definitions of “independent intermediary”, “representative” and “services as intermediary” with that under the STIA regulations
 - regulate the extent to which representatives may provide services in respect of another insurer’s policies (**Proposal V of RDR Phase 1**)
 - regulate the payment of commission in respect of risk replacement policies (**Proposal OO of RDR Phase 1**)
 - recognise that group policies may pay commission in respect of whole of life risk policies
 - remove the 22.5% commission payable in respect of credit life schemes “with administrative work” (**Proposal AAA of RDR Phase 1**)
 - update rates and amounts to reflect inflation
 - strengthen equivalence of reward provisions (also refer to **Proposal RR of RDR Phase 1**)
 - Make Part 3B commission regulations applicable to variable premium increases on “legacy” investment products in the same manner as it applies to investment policies entered into after 1 January 2009 (**Proposal PP of RDR Phase 1**)



Tranche 1: LTIA Regulations

- Part 3C (Limitation on remuneration for outsourcing) has been introduced to –
 - provide that an insurer may pay a fee for “policy data administration services”, defined as the managing, recording and updating of policy and policyholder data of an insurer on behalf of an insurer
 - provide that a person may only earn a policy data administration fee if it has the operational ability to ensure complete integration with the IT system of the insurer
 - provide that the policy data administration fee may not exceed 2% of premium
 - prohibit the payment of a policy data administration fee to a representative that is a natural person or a binder holder if that binder holder has a binder agreement with the insurer to perform the “entering into, vary or renew” function **(all of the aforementioned are to give effect to Proposals Z and AA of RDR Phase 1)**
 - introduce caps on binder fees payable to financial advisors (and their associates) **(Proposal Z of RDR Phase 1)**. Exemptions possible on good cause shown
- Part 3D (General principles for determining remuneration) has been introduced to provide general principles that apply to any remuneration paid to an intermediary by an insurer for rendering services as intermediary and under an outsourcing agreement (including a binder agreement)



Tranche 1: LTIA Regulations

- Part 4 (Limitation on provisions of certain policies) has been amended to –
 - provide for equal treatment of fund member policies and other policies entered into post-retirement in respect of the increases in income drawdown
 - extend the grounds on which the full value of the policy may be paid in the interest of policyholders
 - provide that an insurer may only apply interest to the capital amount of a loan under a policy and not to any other cost or loss in respect of a loan
 - provide that where no interest is charged on a loan, an insurer may not impose any fees, penalties or other charges in respect of the loan in excess of an amount equal to the maximum causal event charge permitted to be charged if the capital amount of the loan had been a partial surrender

- Part 5A (Requirements and limitations regarding the values and benefits of policies) has been amended to –
 - provide for the progressive reduction over time of causal event charges on legacy contractual savings policies
 - that any variable premium increase on or after 1 January 2018 in respect of a policy to which Part 5A applies must be regarded as a separate policy subject to Parts 3B and 5B



Tranche 1: LTIA Regulations

- Part 5C (General principles for calculating causal event charges) has been introduced to provide for principles that insurers must apply when calculating causal event charges in the case of multiple causal events (largely incorporates the existing Directive 153.A.ii(LT))
- Part 6 (Binder Agreements) has been amended to –
 - replace the definitions of “associate” and “underwriting manager” to limit the potential conflicts of interest inherent in binder function-related relationships by extending the scope of prohibited business relationships
 - require incidental activities to be addressed in binder agreements
 - prohibit binder agreement with NMI’s other than for the “entering into, vary or renew” and “claims settlement” activities
 - require a binder holder to provide the insurer with timely, comprehensive and reliable data to ensure that the insurer is able to comply with any regulatory data management requirements
 - impose governance, oversight and record keeping requirements on insurers **(this and the previous two bullets give effect to Proposal ZZ of RDR Phase 1)**
 - extend the matters for which exemptions may be given



TRANCHE 1 AMENDMENTS TO THE STIA REGS



Tranche 1: STIA Regulations

- Part 1 (Interpretation) has been amended to give effect to certain amendments effected to the STIA through the FSLGAA, 2013 by introducing definitions for “independent intermediary”, “services as intermediary” and “representative”
- Part 2 (Calculation of additional amounts of assets) has been deleted as the ILAA, 2008 allowed for capital requirements to be prescribed by the Registrar
- Part 5A (Limitation on remuneration for intermediaries) has been amended to –
 - replace section 8(5) subject to additional safeguards to protect policyholders
 - (section 8(5) was repealed by the FSLGAA but has not yet been made effective) **(Proposal UU of RDR Phase 1)**
 - clarify that commission is payable on gross premium, i.e. the premium as is payable by the policyholder
- Part 5B (Limitation on remuneration for outsourcing), Part 5C (Principles for determining any remuneration) and Part 6 (Binder Agreements) have been introduced or amended in a manner similar to corresponding Parts in the LTIA Regulations



TRANCHE 1 AMENDMENTS TO THE LTIA PPRs



Tranche 1: LTIA PPRs

NEW RULES

- **POLICIES AND PROCEDURES ON THE FAIR TREATMENT OF POLICYHOLDER**
 - The Rule imposes certain general principles to be adhered to aimed at ensuring the fair treatment of policyholders
 - The Rule is aligned to ICP 19.1 and 19.2
- **PRODUCT LINE DESIGN**
 - The Rule imposes requirements on insurers when developing products
 - Before a new product is launched, sign-off on board level and a declaration that the product, distribution methods and disclosure documents meet certain principles are required
 - The Rule is aligned to ICP 19.3
- **CONSUMER CREDIT INSURANCE**
 - The Rule gives effect to certain CCI proposals
 - Requires an insurer to, where a policyholder exercises his/her right in terms of section 106(4)(a) of the National Credit Act, assist the policyholder to comply with any demands of a credit provider under section 106(6) of the National Credit Act or any relevant Credit Life Insurance Regulations



Tranche 1: LTIA PPRs

NEW RULES

- **NEGATIVE OPTION SELECTION OF POLICY TERMS OR CONDITIONS & NEGATIVE OPTION MARKETING**
 - The Rule prohibits default selection where options are available under a policy (different terms or conditions)
 - The Rule affords policyholders and potential policyholder to whom insurers market policies through mobile phone voice or text messages the right to demand during or within a reasonable time after the messages that the insurers or persons acting on their behalf desist from initiating any such further communication
 - Insurers or any persons acting on their behalf may also not charge a fee or allow a mobile phone service provider to charge a fee for making a demand
- **DETERMINING PREMIUMS**
 - The Rule requires that premiums must be reasonable and fair and that premiums must be inclusive of all costs



Tranche 1: LTIA PPRs

NEW RULES

- **VOID PROVISION**
 - The Rule is introduced to align with the current provisions in the STIA PPRs
- **CONSENT REQUIRED TO INSURE A LIFE**
 - The Rule requires that an insurer must obtain consent from a person (older than 18) before insuring that person's life
- **ADVERTISING, BROCHURES OR SIMILAR COMMUNICATIONS**
 - The Rule gives effect to the draft Information Letter on Advertising, brochures or similar communications
 - Additional provisions have been included subsequent to consideration of comments received on the draft Information Letter
- **DISCLOSURE, LANGUAGE AND RECORD KEEPING**
 - The Rule introduces requirements relating to disclosure at point of entering into a policy (including timing, delivery and content of disclosures), on-going disclosure, language and format of communications to policyholders and record keeping



Tranche 1: LTIA PPRs

NEW RULES

- **DATA MANAGEMENT**

- The Rule requires an insurer to have an appropriate data management framework and sufficient organisational resources and operational ability to ensure the data management framework is effective
- The Rule also requires that an insurer regularly reviews its data management framework and document changes thereto

- **ON-GOING REVIEW OF PRODUCT LINE PERFORMANCE**

- The Rule requires that an insurer continually understand and monitor its products, related distribution methods and disclosure documents

- **PREMIUM REVIEWS**

- The Rule introduces requirements relating to premium reviews, including that reviews must be justified and reasonably balance the interests of the insurer and the reasonable benefit expectations of its policyholders
- The Rule also provides that reviews must be timeously communicated to policyholders



Tranche 1: LTIA PPRs

NEW RULES

- **CLAIMS MANAGEMENT**
 - The Rule gives effect to the Claims Management Proposals
- **COMPLAINTS MANAGEMENT**
 - The Rule gives effect to the Complaints Management Proposals
- **REPLACEMENT OF POLICIES**
 - The Rule gives effect to Proposal OO of RDR Phase 1
 - Links to the amendments to the Regulations made in this regard
- **TERMINATION OF POLICIES**
 - New Rule introduced to align with the STIA PPRs (also refer to amendments under the STIA PPRs and Proposal VV of RDR Phase 1)
 - Specific requirements introduced in respect of the termination of group schemes



Tranche 1: LTIA PPRs

AMENDMENTS TO EXISTING RULES

▪ **FUND POLICIES**

- Amendments to the existing Rule relating to when a fund must receive the policy has been proposed to address the timeous dissemination of information relating to a policy

▪ **COOLING-OFF RIGHTS**

- The existing Rule relating to cooling-off rights has been amended to improve readability

▪ **ARRANGEMENTS WITH INTERMEDIARIES**

- Rule amended to more accurately align with the FAIS Act, give effect to Proposal FF of RDR Phase 1 and incorporate certain ombuds proposals

▪ **POLICY LOANS AND CESSIONS**

- Rule amended to improve readability and to ensure that a policyholder knows where they stand in respect of the policy value or benefits in respect of a ceded policy



Tranche 1: LTIA PPRs

RULES NOT AMENDED

- WAIVER OF RIGHTS
- SIGNING OF BLANK OR UNCOMPLETED FORMS



Tranche 1: LTIA PPRs

RULES DELETED

- **ASSISTANCE BUSINESS GROUP SCHEMES**
 - There is no longer a reason to specifically provide for Assistance Business Group Schemes. Specific requirements in respect of the termination of group schemes have been introduced in a separate Rule

- **BASIC RULES FOR DIRECT MARKETERS**
 - Current requirements in this Rule have been incorporated into the proposed amendments in various places and will apply to all insurers



TRANCHE 1 AMENDMENTS TO THE STIA PPRs



Tranche 1: STIA PPRs

New Rules similar to corresponding Rules in the LTIA PPRs:

NEW RULES

- **POLICIES AND PROCEDURES ON THE FAIR TREATMENT OF POLICYHOLDERS**
- **PRODUCT LINE DESIGN**
- **CONSUMER CREDIT INSURANCE**
- **COOLING-OFF RIGHTS**
- **POLICY TERMS AND CONDITIONS**
- **DETERMINING PREMIUMS**
- **CONSENT REQUIRED TO INSURE A LIFE**
- **ADVERTISING, BROCHURES AND SIMILAR COMMUNICATIONS**
- **DISCLOSURE, LANGUAGE AND RECORD KEEPING**



Tranche 1: STIA PPRs

NEW RULES

- DATA MANAGEMENT
- ON-GOING REVIEW OF PRODUCT LINE PERFORMANCE
- PREMIUM REVIEWS
- CLAIMS MANAGEMENT
- COMPLAINTS MANAGEMENT



Tranche 1: STIA PPRs

AMENDMENTS TO EXISTING RULES

Rules amended in a similar manner to corresponding Rules in the LTIA PPRs:

- **ARRANGEMENTS WITH INTERMEDIARIES**
- **TERMINATION OF POLICIES**



Tranche 1: STIA PPRs

RULES NOT AMENDED

- VOID PROVISIONS
- WAIVER OF RIGHTS
- SIGNING OF BLANK OR UNCOMPLETED FORMS
- PERIODS OF GRACE



Tranche 1: STIA PPRs

RULES DELETED

- **DEBIT ORDERS**

- There is no longer a need for this Rule in the light of the new authenticated debit order system that will be introduced under the National Payment System Act

- **BASIC RULES FOR DIRECT MARKETERS**

- Current requirements in this Rule have been incorporated into the proposed amendments in various places and will apply to all insurers



TRANCHE 2 AMENDMENTS TO THE REGS & PPRs



Tranche 2

▪ Alignment with the Insurance Bill

Will primarily focus on –

- alignment with the terminology used in the Insurance Bill
- alignment with the authorisation classes (segmentation) introduced by the Insurance Bill
- accommodating the transitional period of two years within which registered insurers will have to apply for re-licensing under the Insurance Bill

▪ Introducing other conduct of business reforms

- In order to facilitate the amendment of the Regulations and PPRs to give effect to certain of the conduct of business reforms, the LTIA and STIA must first be amended (through Schedule 1 of the Insurance Bill)
- Necessary to ensure that the conduct of business regulatory framework for insurance remains robust pending the enactment of the CoFI Bill
- Some of the current conduct of business requirements in the LTIA and STIA will be repealed by Schedule 1 of the Insurance Bill and will be moved into the Regulations and PPRs as part of the amendments to be made in Tranche 2



Tranche 2

TIMING

- Tranche 2 amendments to the Regulations and PPRs will take effect on the date on which the Insurance Bill becomes effective

CONSULTATION

- Consultation in respect of the Tranche 2 amendments will take effect after the Bill is enacted but prior to commencement



Questions?