



# Enforcement Approach

Insurance Regulatory  
Seminar - 2016

*Makgompi Raphasha*  
*Head: Insurance Enforcement*  
*Department*

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## 1. INTRODUCTION

- *Rules based approach v Principle based approach*
- *Regulatory action*
- *Enforcement action*

## 2. REGULATORY ACTION

- *Outsourcing / Binder functions*

## 3. ENFORCEMENT ACTION

- *Inducement*
- *Unregistered Insurance Business*
- *Regulatory applications*
- *Penalties*





# INTRODUCTION

- ❑ Shift from Rule Based Approach to Principle Based Approach
- ❑ Brief Explanation of Regulatory & Enforcement Action





# REGULATORY ACTION

## A. OUTSOURCING/BINDER FUNCTIONS

### Insurer A: Enforceable Undertaking



- Contravention of section 49A of the LTIA read with Regulation 6.3.3(a).
- Insurer A failed to ensure that binder agreement only dealt with binder matters – instead it also covered other arrangements. Symptomatic of a wider lack of appropriate governance/oversight of binder arrangement.
- Insurer A undertook, amongst others, to review all agreements and motivate the payment of all fees for each outsourced and binder functions, as well as strengthen oversight.
- Consequences of breach of the enforceable undertaking by insurer A.



# REGULATORY ACTION

## A: OUTSOURCING/BINDER FUNCTIONS

### Insurer B: Prohibition to carry on new business

- Contravention of section 49A of the LTIA.
- Insurer B authorised its administrators to perform binder functions without having entered into binder agreements. Symptomatic of wider lack of appropriate governance/oversight over binder arrangements.
- Notice of intention to prohibit insurer B to carry on new long-term insurance business in respect of assistance policies.
- The notice of intention was to be lifted if insurer B satisfied the Registrar that it was able to conduct its business in respect of assistance policies subject to appropriate management and oversight and in compliance with the LTIA.



# REGULATORY ACTION

## SAXUM: LADDER OF INTERVENTION

- On-site visit points to serious concerns/contraventions w.r.t oversight of binder / outsourcing arrangements.
- saXum directed to conduct an independent review of outsourcing/binder oversight
- saXum suffers impact of inadequate oversight – no longer has financial resources to carry on business
- Notice of intention to prohibit saXum from carrying on any new short-term insurance business, failing timely recapitalisation
- Recapitalisation does not arise – Registrar applies for final liquidation
- Inspection into saXum and associated institutions
- Working with liquidator to find speedy resolution to outstanding claims





# ENFORCEMENT ACTION

## INDUCEMENT

- Insurer C penalised for contravening section 44 of the STIA
- Premium waiver offered to a certain group of prospective policyholders if they took a policy with insurer C before a certain date
- Valuable consideration offered not linked to risk.

## REGULATORY APPLICATIONS

- Contravention of section 8(2)(d) of the STIA
- The intermediary submitted 1 application in circumstances where multiple applications should have been submitted
- Prejudice to the domestic insurance market.

## UNREGISTERED BUSINESS

- Contravention of section 7(1) of the LTIA
- The entity carried on funeral business without being registered as an insurer or its business underwritten by a registered insurer.
- Penalty of R2 million



# ENFORCEMENT PENALTIES

Name of entity	Date of Penalty	Type of Contravention	Penalty
saXum Insurance Limited	27 February 2015	Section 45 of the LTIA	R200 000
Clientele Life Assurance Company Limited	24 June 2015	Rule 16.1.(c)(iii) of the PPRs	R100 000
Mhlangaveza Family Assurance (Pty) Ltd	29 July 2015	Section 7(1) of the LTIA	R200 000
Mpiti Funeral Services CC	16 September 2015	Section 7(1) of the LTIA	R200 000
Discovery Insure Limited	5 November 2015	Section 44 of the STIA	R100 00
Defensive Legal Protection CC (in liquidation)	26 January 2016	Section 7(1) of the STIA	R100 000
Abangcwabi Myendeki Funeral Parlour CC	18 March 2016	Section 7(1) of the LTIA	R2 000 000
Airborne Insurance Consultants (Pty) Ltd	17 August 2016	Section 8(2)(d) of the STIA	R150 000
Lion of Africa Life Assurance Company Limited	9 September 2016	Rule 15(a) & (b) of the PPRs	R200 000
Model Insurance	24 October 2016	Section 7(1) of the STIA	R75 000 : Pieter de Wet R75 000 : Model Insurance





# QUESTIONS

