



Financial Intermediaries Association
of Southern Africa

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Financial Intermediaries Association of Southern Africa comments to the “Proposed amendment of Regulations made under Section 72 of the Long-term Insurance Act” as issued by the National Treasury for public comment on the 9th December 2016.

The comments below follow the numbering and headings of the NT document. The comments will have to be read in conjunction with the “RDR: Status Update” and “Replacement of the Policy Protection Rules” as there appear to be contradictory / complimentary statements / comments across the three. The FAIS Conduct of Business Reporting will also need to be considered.

Note: Given the limited time allowed for comment, the FIA has not been able to fully unpack the implications of the proposed caps on binder fees in the Assistance Business market.

SCHEDULE

4 (h) Definition of Services as intermediary.

Noted that it is intended to align this definition to that as appears in the FAIS Act once all RDR changes have been made; we trust that this will include the proposal that Premium Collection should be regarded as an “Outsourced” service if this is decided. We would mention that despite the exclusion of “policy data administration services”, the industry finds sections of the definition unclear particularly with regards the meaning behind use of the words “directed towards”. This definition requires absolute clarity in order to differentiate “services as intermediary” from other services performed by a broker.

It would be deemed essential to define “Advice” for the sake of clarity in the context of “product specific” (advice as specifically related to the policy) and “general” advice such as comparative product advice, personal recommendations, risk management and professional advice per the definition in the FAIS Act as provided by the independent intermediary as the term “advice” is used throughout the regulations, PPR, RDR and FAIS CoBR.

We would recommend that the definitions include clarity on the intention of the various tranches of remuneration being commission, client and Insurer fees.

2(h)(b)(iii) Insert the high-lighted words “*directed towards* receiving, submitting or processing claims under, or of ”. The actions comprising the processing of claims fall within the Binder domain (or outsource service if no claims settlement mandate is held). This point is also taken up in terms of the PPR Chapter 7, Rule 19.4.3 where it states that receipt of a claim by an intermediary is deemed to be receipt by the insurer, a point which we do not concur with.

2(h)(b)(iv) Insert the high-lighted words “providing administration services *towards entering into* other than policy data administration..... “. Clarity is required on what is meant and or intended by “other than policy data administration services”?

3.9 Special provisions concerning replacement investment policies and 3.9A Special provisions relating to replacement risk policies

The “managing executive” is the correct channel nor that s/he would be able to cope with the volume within the required timeframes.

3.21 Remuneration that may be offered or provided to a binder holder

Unlike in the Short-Term market, binders are not that common in the Long-Term field and are mainly applicable to assistance business, where premiums tend to be low. We believe that the level of capping expressed as a percentage of the premium results in a maximum fee which is infeasible, which would mean that intermediaries would have to close their binder agreements. The practical implications of this on handling the business would be serious.

6 (b) Definition of Associate.

This definition of associate does not take into account the intricate nature of certain business structures that operate independently of each other with no conflict of interest. This could be particularly inherent in large Group structures where potential conflicts can be identified and mitigated the appropriate disclosures to the FSB?

The current FAIS and TCF regimens should adequately mitigate any potential conflicts. We do not recommend that changes be made to the current definition which then keeps it consistent and in alignment with that of the definition in the FAIS Act and avoids any confusion.

6 (f) Definition of “incidental” – we submit that the intention and application of this definition needs to be reviewed as “incidental (meaning having a minor role/not essential)” means any activity that is necessary or expedient...” is a contradiction in terms and for example, the policy issuance and despatch which may be deemed to incidental is anything but that. Perhaps “ancillary services” describes this better. We also request that a cost activity exercise be carried out in order to calculate the accurate costing of “incidental” activities versus that of the act of “enter into”.

Part 7 7.2

Should there not also be a reference to Part 5?

ABOUT THE FIA

The FIA represents, protects, promotes and furthers the common interests of its members, South Africa's risk and financial advisors. FIA members benefit from the support of an influential organisation with the necessary stature and legitimacy to represent their interests at the highest level, including at the regulators, industry bodies and product suppliers.

All members of the FIA are authorised financial services providers or representatives of such providers. Members must adhere to all the requirements prescribed by the FAIS Act and its regulations. In addition, members are bound by the FIA Code of Conduct, which further aligns the organisation with the financial services regulatory landscape.

The FIA enjoys a large and steady national membership comprising financial services intermediaries who cover the broad spectrum of financial planning. We represent 2000 FSPs and 12500 licensed employee benefits consultants, financial advisors, medical schemes brokers and short term insurance brokers throughout Southern Africa. To find out more about the FIA visit www.fia.org.za.