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## **RELEASE OF THE SECOND DRAFT REGULATIONS ON THE DEMARCATION BETWEEN HEALTH INSURANCE POLICIES AND MEDICAL SCHEMES**

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The National Treasury gazetted the Second Draft Demarcation Regulations on 29 April 2014 for further public comment, and today provides further information on the gazette, including the Explanatory Memoranda.

The Second Draft Demarcation Regulations specify which types of health insurance policies are permissible under the Long-term Insurance Act, No. 52 of 1998 ("LTIA") and Short-term Insurance Act, No. 53 of 1998 ("STIA"), and accordingly excluded from regulation under the Medical Schemes Act, No. 131 of 1998, despite such health insurance policies meeting the definition of the business of a medical scheme.

### **The First Draft Demarcation Regulations released in 2012**

The First Draft Demarcation Regulations were published for public comment on 2 March 2012. Two proposals in the First Draft Demarcation Regulations namely a prohibition on Gap Cover products and restrictions on Hospital Cash Plan insurance policies elicited considerable public comment. On 15 October 2013 the Treasury released a summary of the 343 comments received during the initial consultation process. The public comments are available at [www.treasury.gov.za](http://www.treasury.gov.za).

### **The scope of the Second Draft Demarcation Regulations**

The Second Draft Demarcation Regulations take into account the comments received on the first draft. The revised draft recognises the role that appropriately-designed and marketed health insurance policies can play in meeting the need for protection against unanticipated health events. However, these products must operate within a framework whereby they complement medical schemes and support the social solidarity principle embodied in medical scheme cover. The Second Draft Demarcation Regulations, therefore, provide for the continued sale of Gap Cover and Hospital Cash Plan insurance within defined product parameters.

The proposed conditions on health insurance products, as outlined below, seek to ensure that the design, marketing and sale of health insurance policies do not undermine the social solidarity principles in medical schemes, while at the same time serving the needs of those who require additional protection against health-related risks:

- prohibition on health insurance policies from discriminating against any person on the grounds of age, gender and other criteria;
- enhanced product disclosure/marketing requirements;
- alignment of broker commission between health insurance and medical scheme products;
- enhanced regulatory reporting and monitoring;
- product standards which limit policy benefits; and
- limitations on bundled type health insurance products which replicate medical schemes.

## **The amendment to the definition of a “business of a medical scheme”**

The publication of the Second Draft Demarcation Regulations follows the enactment of the Financial Services Laws General Amendment Act, No. 45 of 2013 (“the Act”). The Act, which was passed by Parliament on 12 November 2013, assented to by the President on 14 January 2014, and published in *Government Gazette* No. 37237 of 16 January 2014, amends the definition of a “*business of a medical scheme*” to support the Second Draft Demarcation Regulations and address recent court case judgments which widen the interpretation of this definition.

The Act came into operation on 28 February 2014. The amendment to the definition of a “*business of a medical scheme*” was deferred to come into effect at the same time as the Demarcation Regulations are finalised. Health insurance products that fall within the ambit of this amended definition will be prohibited, unless they are explicitly exempted through the second draft Demarcation Regulations.

### **Comment process and implementation timelines**

Comments on the revised Draft Demarcation Regulations are invited from all interested stakeholders. Written comments should be sent to Ms Reshma Sheoraj at [LTdemarcation@treasury.gov.za](mailto:LTdemarcation@treasury.gov.za) (for the Long-term Insurance Regulations) or [STdemarcation@treasury.gov.za](mailto:STdemarcation@treasury.gov.za) (for the Short-term Insurance Regulations) or faxed to 012 315 5206 by **7 July 2014**.

The Final Demarcation Regulations are then expected to be published by September 2014, after taking into account public comments. It is the intention that the effective date of implementation of the Demarcation Regulations will be on or soon after the Final Demarcation Regulations are published.

All new health insurance policies written after the Final Demarcation Regulations come into operation must be aligned with the requirements set out in the Final Demarcation Regulations. Existing health insurance policies will be expected to align to the Final Demarcation Regulations requirements upon renewal of the health insurance contract.

It is expected that the marketing and sale of the health insurance products covered by the Demarcation Regulations between now and the effective date of the Demarcation Regulations should be accompanied by disclosure with respect to the planned regulatory changes. The Financial Services Board will be requested to monitor any potential mis-selling or abuse during the transition period and take appropriate action where necessary.

### **Supporting Annexures**

The following supporting Annexures are also available on the National Treasury’s website at [www.treasury.gov.za](http://www.treasury.gov.za), and the Financial Services Board’s website at [www.fsb.co.za](http://www.fsb.co.za):

- Annexure A: Second Draft Demarcation Regulations made under section 72(2b) of the LTIA Government Gazette No. 37598.
- Annexure B: Explanatory Memorandum to the Second Draft Demarcation Regulations made under section 72(2b) of the LTIA.
- Annexure C: Second Draft Demarcation Regulations made under section 70(2b) of the STIA: Government Gazette No. 37598.
- Annexure D: Explanatory Memorandum to the Second Draft Demarcation Regulations made under section 70(2b) of the STIA.
- Annexure E: A folder entitled “*First Draft Demarcation Regulations, 2012*”
- Annexure F: A folder entitled “*Public comments received on First Draft Demarcation Regulations*”

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