



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



MEDIA STATEMENT

PROPOSED AMENDMENTS TO INSURANCE BINDER REGULATIONS FOR PUBLIC COMMENT

The National Treasury (“NT”) and Financial Services Board (“FSB”) are seeking public comment for the proposed amendments to Insurance Binder Regulations (“Regulations”) issued under the Short-term and Long-term Insurance Acts (“the Acts”), which were published today in Government Gazette No. 37805.

The proposed Regulations govern the manner in which insurers outsource binder functions. Binder functions refer to the authority granted to an underwriting manager or intermediary to enter into, vary or renew a policy on behalf of an insurer, or to settle claims on behalf of an insurer.

The Regulations are informed by the following broad principles:

- **Accountability of the insurer:** The insurer is responsible for complying with the Acts, irrespective of the fact that the insurer outsources some of its functions to a third party.
- **Responsible outsourcing:** Where an insurer outsources binder functions to a third party, the insurer must ensure that the contractual arrangements, and the oversight and management of the contractual arrangements facilitate (not impede) the insurer’s compliance with the Acts and the fair treatment of policyholders.
- **Policyholder protection:** Policyholder interests and the fair treatment of policyholders may not be prejudiced by the outsourcing of binder functions by an insurer.
- **Conflicts of interest:** Any potential conflicts of interest that may arise where an intermediary is a binder holder must be mitigated or avoided.

The proposed amendments to the Regulations seek to address emerging undesirable practices and regulatory gaps identified post implementation of the Regulations (Gazette No. 34877) in January 2012 and to better align the Regulations with the principles referred to above.

The proposed amendments strengthen the existing Regulations and enhance policyholder protection by:

- Clarifying the definition of associate and underwriting manager. This new definition of associate is intended to limit potential conflicts of interest inherent in certain binder arrangements.
- Clarifying what constitutes matters incidental to binder functions and that these matters must be addressed in binder agreements.
- Authorising the Registrar of Insurance to prescribe and limit fees payable in respect of binder functions so as to address potential conflicts of interest.
- Relaxing the circumstances under which an exemption may be granted where a conflict of interest can be appropriately mitigated.
- Excluding the South African Special Risk Insurance Association (“SASRIA”) from the scope of the Regulations, given the limited risks to policyholder protection objectives arising from SASRIA’s arrangements with insurers to enter into policies on its behalf.
- Providing technical and grammatical corrections.

Process

Comments on the proposed amendments to the Regulations should be submitted by 1 September 2014, to Ms Reshma Sheoraj, Director: Insurance, Private Bag X115, Pretoria, 0001 or by fax to 012 315 5206; or by email to LTBinders@treasury.gov.za for the long-term insurance Regulations and STBinders@treasury.gov.za for the short-term insurance Regulations.

The Regulations and explanatory memoranda are also available on the NT (www.treasury.gov.za) and FSB (www.fsb.co.za) websites.

Issued by: National Treasury and Financial Services Board
Date: 11 July 2014