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National Treasury
REPUBLIC OF SOUTH AFRICA



MEDIA STATEMENT

RELEASE OF FINAL INSURANCE CONDUCT REGULATIONS AND POLICYHOLDER PROTECTION RULES

The National Treasury and the Financial Services Board (FSB) today publish the final Insurance Regulations (Regulations), made by the Minister of Finance, and the Policyholder Protection Rules (PPRs), made by the Registrar of Insurance, under the Long-term Insurance Act, 1998 (LTIA) and the Short-term Insurance Act, 1998 (STIA).

Notice for the commencement of certain provisions of the Financial Services Laws General Amendment Act, 2013 (FSLGAA) to support the Regulations was also published.

The draft Regulations and PPRs were tabled in Parliament on 2 November 2017, as required in terms of sections 72(2B) and 62(4)(a)(ii) of the LTIA and sections 70(2B) and 55(4)(a)(ii) of the STIA. The period for Parliamentary review ended on 2 December 2017.

The Regulations and PPRs form part of a bold Government reform programme to deliver better customer outcomes across the financial sector and improve market conduct in the insurance sector. They aim to ensure that the industry treats its customers fairly, and that incentives are aligned to ensure that less complex, good-value products are provided to consumers. These Regulations and PPRs support Government's objective to ensure that the right insurance products are available and accessible to all South Africans.

The proposed reforms also address conduct of business risks and abuses that have been identified through supervision. A more detailed review of the Regulations will form part of the broader review of all conduct of business legislative frameworks across the various sectors regulated by the future Financial Sector Conduct Authority as part of the Twin Peaks reforms.

Consultation process

In December 2016, National Treasury and the FSB published, for public comment, the proposed amendments to Regulations and PPRs. In February 2017, National Treasury, together with the FSB, hosted workshops with stakeholders to engage on the changes proposed in the draft Regulations and PPRs.





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A total of 40 commentators provided feedback on the draft Regulations, and 27 on the draft PPRs through the formal consultation process. The National and FSB undertook a comprehensive review of all comments received, as well as further direct engagement, including workshops, with commentators.

On 1 September 2017, the draft PPRs were published for a second round of formal consultation. A total of 16 commentators provided feedback on the second draft of the PPRs and the FSB undertook a comprehensive review of all comments received in finalising the PPRs.

Background to the Regulations and PPRs

The conduct of business reforms that will be given effect through the Regulations and PPRs relate to -

- Phase 1 of the 2014 Retail Distribution Review ("RDR") which proposes a number of improvements to how financial products are distributed and sold, including: principles for remuneration of intermediaries to address conflicts of interest (especially those relating to advisors representing both insurers and the consumer), ensuring that insurers who outsource critical functions remain ultimately responsible for those functions, and curbing poor advice and intermediary practices.
- Improvements to the requirements for binder agreements in support of the RDR which limit who may enter into a binder agreement, what sort of activity may be outsourced and what remuneration may be paid in a binder agreement, so as to address conflicts of interest.
- Certain matters identified in the consultations on the Technical Report on the Consumer Credit Market in South Africa published on 3 July 2014, which signalled concerns with respect to consumer abuses in the consumer credit insurance market. The amended Regulations and PPRs introduce alignment with planned DTI Regulations dealing with caps on mandatory credit life premiums, as well as introducing a range of principles and requirements on fair treatment of policyholders that also apply to consumer credit insurance products.
- Improving policyholder protection in the Ombud system by compelling the insurer to display Ombud information to policyholders, keeping records of complaints and requiring cooperation with the insurance Ombuds.





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- The Complaints Management Discussion Document published in October 2014 and the Complaints Management Thematic Review published on 17 October 2014, which aim to improve complaints management processes, including by introducing requirements for claims management procedures, monitoring and analysis of complaints and the reporting of complaints information to the regulator and Ombuds.
- The draft Information Letter on Advertising, Brochures and Similar Communications published for comment in December 2013, designed to ensure fair and not-misleading communication with potential policyholders.
- Appropriate minimum requirements for claims management.
- Additional critical protections for policyholders identified through supervision (principles to inform premiums and premium reviews, minimum data governance requirements and negative option marketing).
- Alignment with international standards in terms of the International Association of Insurance Supervisor's Insurance Core Principles.
- Alignment, in certain respects, with the Financial Advisory and Intermediary Services Act, 2002.
- Closing regulatory gaps and effecting technical improvements to clarify the intent and purpose of certain provisions.

The Regulations also introduce changes to the maximum causal event charges that apply to legacy contractual savings policies (entered into before January 2009) in the life insurance sector. The Regulations provide for the progressive reduction over time of the maximum penalty that can be charged when a legacy policy is lapsed, surrendered, transferred or the premium reduced.





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Commencement of certain section to support the Regulations

Sections 95, 109(e), 109(k), 109(l), 114(d) and 135 of the FSLGAA repealed the definitions of “independent intermediary”, “representative” and “services as intermediary”. These definitions have now been provided for in the Regulations. When the Regulations commence, these sections of the FSLGAA repealing the aforementioned definitions will also be brought into operation.

Implementation timelines

The Regulations and PPRs will take effect from 1 January 2018, with transitional provisions provided for certain sections.

Supporting Annexures

The following supporting Annexures are also available on the National Treasury’s website at www.treasury.gov.za and the Financial Services Board’s website at www.fsb.co.za

Annexure A1	Long-term Insurance Regulations (Gazette No. 41334)
Annexure A2	Short-term Insurance Regulations (Gazette No.41334)
Annexure A3	Commencement of certain section in FSLGAA (Gazette No. 41334)
Annexure B	Long-term Insurance Policyholder Protection Rules (Gazette No. 41321)
Annexure C	Short-term Insurance Policyholder Protection Rules (Gazette No. 41329)
Annexure D	Response to public comments received on the Regulations and PPR’s

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