RESPONSES TO COMMENTS RECEIVED ON THE PROPOSED AMENDMENTS TO THE REGULATIONS MADE UNDER THE SHORT-TERM INSURANCE ACT, 1998

#	Commentators	
	Organisation	**Contact Person**
1	**Financial Intermediaries Association of Southern Africa (FIA)**	-
2	**Fulcrum Collections (Fulcrum)**	
3	**Innovation Group**	Langa Mnyandu
4	**Insure Group Managers Ltd (Insure Group)**	Diane Burns
5	**Prestgroup**	Leonette Kruger
6	**Masthead Financial Advisors Association (Masthead)**	Nicky Nairn
7	**Monarch Insurance Company Limited, Lewis Stores (Pty) Ltd (Monarch)**	Leslie Allan Davies
8	**Old Mutual Insure (Old Mutual)**	Mohammed Aslam Patel
9	**Renasa Insurance Company Limited (Renasa)**	Brian Martin
10	**Santam Limited (Santam)**	Riaan van Wyk
11	**SDK Compliance Consultants cc (SDK)**	Sue Liebenberg
12	**South African Insurance Association (SAIA)**	Easvarie Naidoo

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PART I INTERPRETATION					
1.	**Santam**	**3(b)**	**1.1 definition "independent intermediary"**	What would the status of a Lloyd's correspondent be?	A Lloyd's correspondent would be an independent intermediary or representative, depending on whether or not it only acts for Lloyd's.
2.	**SAIA**	**3 (b)**	**1.1 Definition of "independent intermediary"**	• Please clarify whether "collection agents" are deemed to fall under the definition of "intermediary" as they do not act as the agent of the client and in many cases, they are not acting as the agent of the insurer, but is an outsourced service provider utilised by an intermediary who has been authorised by the insurer to collect the premium. • Please advise whether "collection agents" are deemed to be Financial Service Providers (FSPs). • Some members are of the view that collecting or accounting for premium should not be considered to be an intermediary service. It is a function performed solely on behalf of the insurer as an insurer function and the intermediary is acting purely as the insurer's agent when performing this service. The Financial Sector Conduct Authority (FSCA) stated, at its non-life industry workshop held on 3 April 2018 on the Policyholder Protections Rules (PPRs) and the Insurance Regulations, that premium collection will be	• In the Regulations "services as intermediary" is defined as, amongst other things, any act performed by a person with a view to collecting or accounting for premium payable under a policy. "Independent intermediary" is defined as "a person, other than a representative, who renders "services as intermediary". Therefore, any person that collects or accounts for premiums would be performing services as intermediary and would be classified as an independent intermediary (unless such person is a representative). • If a collection agent performs "intermediary services" as defined in the FAIS Act (e.g. performs any act with a view to collecting or accounting for premiums or other moneys payable by the client to a product supplier in respect of a financial product) then the collection agent must be authorised as

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				classified as outsourcing at a later stage. We are of the view that collection of premium is an outsource service and should be dealt with in terms of an outsource agreement for a commensurate fee.	a FSP or be a representative of an authorised FSP. • Noted. As part of the RDR process we have acknowledged that we need to reconsider the classification of premium collection. As you correctly state, at a later stage premium collection may be reclassified as outsourcing.
3.	**SDK**	**3 (g)**	**1.1 Definition "representative"**	Should this not be by **AN** insurer only? Otherwise it is not clear whether a representative can be a representative who does work in a brokerage for more than one insurer?	Paragraph (b) of the definition does provide that it must be in respect of the policies of the insurer only.
4.	**FIA**	**3(g)**	**1.1 Definition "representative"**	Some confusion arises in the use of the same term in the Short-term Insurance Act, the Insurance Act and the Regulations where it refers to employees of an insurer and in the FAIS Act where it refers to employees of Financial Services Providers such as independent intermediaries. Alternate terms should be considered.	Please note that the STIA no longer defines "representative". The Insurance Act also does not define representative. The FAIS Act regulates the representatives of the FSP, not the product provider. It is therefore unclear what the confusion is. Please clarify with specific examples and wording which, in your opinion, results in ambiguity.
5.	**FIA**	**3 (j)**	**1.1 Definition "services as intermediary"**	Still requires redefinition in line with FIA comments provided in response to FSB's original request for information around Intermediary Services and associated remuneration provided by the FIA on 30 March 2012 and the FIA commentary on the RDR in 2014 and various other requests for comment on proposed regulatory change since then.	Please refer to our response to your previous comments. We acknowledge that the activity segmentation process will have an influence on how this term is defined. However, this is an outcome for the future and at this stage the definitions

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			1.1 Definition "services as intermediary" (b) (ii) "Collecting or accounting for premium payable"	The FIA notes the Intermediary Activity Segmentation Analysis (ASA) project being undertaken by the FSCA and recommends that this definition and that of "advice" be include in the required outcomes. This should also consider alignment to the definition of "intermediary services" in the FAIS Act. The Regulator has intimated that this activity will be reclassified as an Outsourced Service in due course and at that point will be removed from this definition. Whilst we understand the basis for this proposed change we request full engagement around this in conjunction with our proposals under 4.1(1) below.	will remain as is. All stakeholders will be consulted once further changes are proposed emanating from the activity segmentation and further RDR implementation steps.
6.	**Fulcrum**	**3 (j)**	**1.1 Definition "services as intermediary"**	Fulcrum notes that the proposed definition of "services as intermediary" leaves the activity of collecting and accounting for insurance premium under the ambit of intermediary services. The retention of the current position runs counter to the direction suggested by the Retail Distribution Review (RDR). Proposal F of the RDR (as set out in the RDR Status Update 2016) stated that it was the Regulator's view that premium collection should be a core insurer competency which the insurer could choose to outsource to so-called "qualifying intermediaries". Fulcrum consistently made	The contents of your comment are noted, and we agree with many of your assertions. We have acknowledged, and maintain the view, that premium collection may in due course be classified as an outsourced activity as opposed to a services as intermediary as is currently the case. However, as communicated previously, this reclassification will only occur in future amendments. For now the *status quo* will remain.

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				submissions to the effect that it supported the Regulator's view on the nature of premium collection. Our stance in this regard has not changed and we continue to believe that Proposal F is a better route for the function of premium collection. As such we believe that the regulations should facilitate a managed transition in which premium collection moved from an intermediary service to an outsource service. This view is based upon the fact that premium is already defined as the consideration paid in exchange for benefits under a policy of insurance (which benefits are required to be underwritten by an insurer only). From this definition it follows that the management of premium, including the collection of premium, should be an insurer core competence which that insurer, depending on its business model and preferences, can choose to outsource to a suitable outsourced party. Fulcrum's business model and solutions have been developed to align with Proposal F. Fulcrum is already implementing collections premium directly into the bank accounts of insurers. This is proving more efficient, safer and more desirable in every way for insurers. At the same time, intermediaries and policyholders are unaffected by the changes we have made to our business processes. We believe that this is reflective of the intention of the Regulator with respect to the safe and effective collection of premium in the insurance market. Nevertheless, the continued rollout of our premium collection solution requires	With regards to your comment relating to the gradual phasing out of the IGF requirement, please see our response to comment number 7 below.

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				that a number of uncertainties be finally clarified in the future regulatory approach. The most important of these is whether premium collection is an intermediary service or an outsourced service. This distinction is important because remuneration is determined by this classification. Insurers are understandably reluctant to anticipate an outsourcing fee arrangement, despite the clear indications spelt out in Proposal F, whilst the current definition retains premium collection as an intermediary service. If premium collection were to become an outsource service to be governed by Directive 159, this concern would be entirely addressed. Fulcrum’s investment in the development of this safe and near risk-free business solution has been considerable. However, if the assumptions around the imminent move to an outsource basis of operation for insurance premium collections prove unfounded, then the sustainability of our solution is threatened. We believe that the appropriate transition for premium collection from an intermediary service to an outsourced service should be managed carefully to ensure that no insurers, intermediaries, policyholders or premium collection service providers are adversely impacted. This can be achieved by allowing for the gradual phasing out of the existing IGF facility over a suitable period. This would allow insurers time to assess their premium collection arrangements, to negotiate new premium collection arrangements with suitable	

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				service providers that meet the required standards and, where premium collection is being done by intermediaries or service providers that do not meet the required standards, to terminate such arrangements and to make alternate arrangements. Fulcrum's experience in rolling out its new premium collection solution to the market has been that although there is widespread support for the solution, the commercial negotiations have been overly protracted because of the uncertainty surrounding whether premium collection will become an outsourced service and, if so, when it will do so. It is Fulcrum's respectful view that a gradual phasing out of IGF should be run in parallel with creating the regulatory framework for insurers to arrange for direct premium collection into their bank accounts on an outsourced basis. The safety, security and efficiency (SAM) reasons for creating this regulatory space are self-explanatory. Should the regulator envisage out sourcing of the premium collection function as the ultimate solution, these changes should be introduced now, as opposed to the interim continuation of premium collection as an intermediary service. The nature of the two structures differ in several respects, which makes it impossible for affected entities to implement interim changes only to envisage a different final collection structure. The IGF facility must be gradually phased out as suggested above, however, this should be in line with the outsourced structure	

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				of premium collection in mind, not in order to meet the current interim requirements of intermediary functions. Other areas of regulation are also affected, such as fees and commission structures, payment instructions, etc, which are discussed further below.	
PART 4 **AUTHORISATION OF AND REQUIREMENTS FOR COLLECTION OF PREMIUMS BY INTERMEDIARIES(SECTION 45)**					
7.	**Insure Group**	**5.**	**Part 4**	The commonly held expert view and indeed the FIA communication (FIA Comparison) is that the IGF Ltd is being withdrawn and "discontinued due to difficulties and constraints due to SAM". The industry experts have also deduced from SAIA/IGF Ltd. letters distributed to IGF Ltd shareholders and SAIA website bulletins (March 2018) that the IGF Ltd has been unable to obtain support from its shareholders. Allowing the demise of the IGF Ltd and leaving matters to market forces and regularity Amendment is not an appropriate industry change and it has no contingency planning protocols. This is especially important as what is being described as "the demise of the IGF Ltd " is either that it is the second SAM casualty being an Insurer either unable or unwilling to sustain itself under SAM. (The first SAM casualty being Saxum Insurance Ltd which had a reported R70 m shortfall when the FSB applied for its curatorship)	You are correct that there were discussions regarding the continued viability of the IGF (registered insurer) under the SAM regime with the IGF since 2013. In addition, the guarantee requirement was there to provide protection to an insurer in the instance where an intermediary defaults in remitting premiums to the insurer. Insurers that allow intermediaries to collect premiums must take appropriate measures to manage associated risks. The insurer may or may not require the intermediary to provide a guarantee or collateral, but this must be at the instance of the insurer. Also, with the IGF not continuing as an insurer under the Insurance Act the IGF requirements in the Regulations can no longer be retained. For this reason the decision was taken to remove the guarantee requirement. It is our

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				The conspiracy theories are that its demise constitutes deliberate industry engineering. (That is a "Trojan Horse" scenario). The reason that SAM is so important to questions around the IGF Ltd demise and the subsequent policy decision to withdraw the need for security is that SAM was in itself an administrative act. It should be clearly understood and recognised that this was the "Intermediaries Guarantee FACILITY" Ltd. Whilst its issued guarantees were 'security for the Insurers' it had reach and benefit for all its Stakeholders The IGF Ltd actually gave very laudable benefits to the industry based on an excellent price, efficient service, skilled underwriting committee and an engaged and very experienced Board members from both SAIA and Insurers. The absence of claims should not be attributed to lack of market requirement or risk -rather that this entity became an extremely proficient and efficient "gatekeeper". It should also be noted that we are advised that 50% of IGF Holders had provided security collateral to the IGF Ltd. We cannot accept any contention that because security is proposed to not be a regulatory requirement that it is not critical to our industry that	understanding that appropriate arrangements will be agreed by the Prudential Authority and the IGF to ensure the orderly run-off of insurance business in place on 1 July 2018.

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				HAS KNOWN nothing else since 1998 – being a twenty (20) year period. As a consequence of this 20 year period it follows that all Insurer authorised "credit" intermediary records have the following minimum fields: 1. FSP number 2. IGF reference 3. IGF amount 4. IGF renewal date If a phased discontinuation and transition of the FACILITY under current insurer shareholder ownership is not diligently planned and co-ordinated, it is also highly likely that the IGF Ltd reinsurers (given that it is 100% reinsured) will sustain massive claims. This will bring the entire SA insurance market into disrepute. Latent exposures due to lack of transition will only manifest when the IGF Ltd stops issuing guarantees. We are aware that that SAIA, FCSA and PA are requesting comment from Insurers on the requirement for guarantees. We are in a position to advise that this is a "credential" requirement. This credential requirement has effectively been escalated and compounded by advices we understand to have been communicated to Insurers by Regulators that they must mitigate against "concentration" risk. It is very difficult to see how concentration risk can be mitigated without sophisticated instruments such as guarantees.	

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				Furthermore it must be recorded that the issue of an IGF guarantee other than by the IGF Ltd would have been illegal in South Africa for the last 20 years – so there are currently no available product providers. As many potential Insurer product providers will inherently be conflicted in this regard (they cannot guarantee their own authorised intermediary premiums) this impediment requires special attention. Insurers are very tentative if they do not have risk data. Therefore the OSIP requirements will need to be waived. We do not believe that the Statement deals with these matters sufficiently and therefore rationality is absent. Furthermore: Each insurer will specify its own reporting requirement. This will require significant development of systems and reporting protocols which will evolve over time. Operational ability - at all times. This implies that premium collection can only be undertaken by intermediaries that have full Business Continuity Programs (BCP), Disaster Recovery Programs (DRP), and PASA accreditation. Guarantees ensure that there is no material increase of risk to Insurers. Fair treatment - this by implication means that premium collection is and must remain an	

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				intermediary service to ensure TCF and appropriate complaints resolution frameworks. Ancillary questions: Under the proposed Amendments what are envisaged as contingency plans with respect to Insurers who do not perform oversight as required. Will this be grounds for the transfer of portfolios to Insurers able to fulfill their obligations? 4.1(1) b: IGM is not a member of Financial Intermediaries Association (FIA). The FIA is a broker focused Association and Brokers can be identified as their primary interest. Accordingly IGM has not been party to the FIA submission. As a Collection Agency a certain number of IGM Clients hold FIA membership. This subsection may mean that where intermediaries do not collect premiums a portion of the commission cannot be paid. That is unconstitutional. That meaning is not compatible with the statement in "the Statement" that " … it is essential that the regulatory framework for premium collection remains relevant to current practices in the market". The Amendments will have an effect on a large number of entities and people as all intermediaries are effectively engaged in "*accounting for premiums*" whether they "collect" or not.	Comment regarding transfer of portfolio not understood. Where insurers do not perform oversight, appropriate regulatory action will be taken. Comment not understood. According to the current requirements a person collecting premiums is performing services as intermediary, and services as intermediary may currently only be remunerated by regulated commission. The proposed regulation 4.1(1)(b) does not change this current position and merely provides that the commission paid to such an intermediary must be recorded in the authorisation. Seeing that the existing requirements subjects an intermediary collecting premiums to the commission regulations, we are also of the opinion that the suggested impact you highlight below (which according to our understanding is based on the fact that intermediaries collecting premiums is subjected to the commission regulations) is unfounded. Notwithstanding, please note that regulation 4.1(1)(b) has been deleted due to a practical concern raised- please see

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				Examples (for illustrative purposes – only) : - Even non collecting intermediaries are responsible for providing correct bank details of authorised collecting intermediaries (of UMA's of Collection Agencies etc) or Insurers; arranging Proof of Payments of received and disbursed premiums and refunds. (Refunds which are 'reversed premiums' in nature). Impact: General Industry The Amendment require clarification from Treasury. They ostensibly affect up to 40 000 FSP entities and their personnel. Those are FSPs operating under the FAIS Act and licenced for products which will fall within the new Insurance Act in relation to commissions on Nonlife and Life products. Specific impact: many of Insure Group's current and prospective clients are impacted by any changes to their revenue which will be the case with the Amendments. Therefore clarification is of critical importance and no industry comment can be deemed fully informed and comprehensive without this. By way of preliminary comment pending such full clarification and thereafter full consultation we	comment number 15 and our response thereto.

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				record our ongoing experience that many intermediaries/FSP's are under severe financial stress. In this light we regard the potential industry impact highlighted by the FIA as an extremely material matter. IGM also does not believe it was dealt in any manner by Sec 4.1(1)(b) in the Statement which adds the prevailing industry concern and speculation. Furthermore the 4 week period for comment (23rd March to 23 April) which is very short meant that the FIA who attempted to hi-light this aspect of great significance were only able to practically give their collective FIA members 10 days to respond.	
8.	**Old Mutual**	**5.**	**4.1**	FSB transitional period at least 24 months, if the central IGF register falls away work will be required to replicate/ replace similar controls	We are of the view that a 24 month transitional period is too long. However, we agree that a transitional period is necessary. Considering the amendments made to the published draft, we are of the opinion that a transitional period of 12 months is appropriate for new requirements (with the exception of Regulation 4.1(4)). Existing requirements will become effective immediately. Please see amendments to Regulation 8.
9.	**SAIA**	**5.**	**4.1(1)**	• The SAIA proposes that there should be an additional clause that the insurer must specify in writing for specific security to be provided by the intermediary, which security must be in the form of either a bank guarantee for a minimum of 50%	Please refer to Annexure E (Statement supporting the Regulations) which explained the approach to premium collection and the removal of the IGF requirement. Potential default by the

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				of the amount of premium being collected by the intermediary in any one collection period or an appropriate insurance policy which will provide security for the same amount. • We are of the view that it should not be left to the discretion of each insurer as it will allow brokers to negotiate these security requirements between insurers and if not consistent, it may create a situation where brokers may choose insurers on the basis of the collection mandates and lack of guarantees demanded. The guarantee required by an intermediary to collect premium must be mandatory and standard or it may create a conflict situation for the broker who will support an insurer that makes it cheaper and easier to obtain a premium collection mandate.	intermediary in paying over premiums is a prudential risk that must be mitigated by the insurer by imposing risk mitigation measures it deems appropriate, as contemplated in proposed Prudential standards. The purpose of the Regulations and FSCA is not to mitigate prudential risk, the latter is the mandate of the PA. We recommend that any proposals regarding explicit risk mitigation requirements in this regard be submitted to the PA for consideration.
10.	**Masthead**	**5.**	**4.1**	The requirements relating to binder agreements in Regulation 6.2A(b)(ii) specify that an insurer must satisfy itself of the "fitness and propriety …" of the binder holder. We recommend that a similar requirement be inserted into Regulation 4.1(b) to ensure that it is clear that before authorising an intermediary to collect premiums, the insurer must satisfy itself of the fitness and propriety of the intermediary. No reference is made in 4.1 to the termination of the authorisation. We recommend that the written authorisation specify the process to be followed in the event of the authorisation being terminated.	✐ Agreed. Amendment made to include a requirement relating to fitness and propriety. ✐ Agreed. Amendment made to include a requirement relating to the termination of the authorisation.

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11.	SAIA	5.	4.1(1) and 4.1(3)	• If an insurer authorised an independent intermediary to collect premium, who in turn uses a collection agent, who is not a FSP, please clarify who needs to be authorised by the insurer for the intermediary services. In most cases where a collection agent is used, the intermediary (broker) prepares the information for the "magnetic tape" and deals with the returned debit orders and advises the clients accordingly in terms of the PPRs, whereas the collection agent merely process/ administers the actual collection of the funds from the respective bank accounts of the policyholders. • The split in the functions performed is crucial to inform who actually performs the intermediary functions and who does the administrative functions. We understand that the ultimate goal is to treat the premium collection as an outsourced activity, but this interim amendment of keeping the entire premium collection process under the ambit of "intermediary services" does pose some practical challenges as illustrated above. • An aspect which is not covered in the amendments, but which will have a practical implication on the collection process, relates to the new proposed Payments Association of South Africa (PASA) requirements where the debit order authentication process would need to be considered. Please clarify whether the	• It has always been our view that the person performing a function set out in section 45 of the STIA must be authorised by the insurer concerned. If more than one intermediary is performing a function set out in section 45, the insurer must authorise both these intermediaries. We have embedded this view by providing for a requirement stating that an intermediary cannot delegate the authorisation obtained from the insurer. • Please see our response to comment number 5 above and other responses dealing with the matter of moving premium collection to outsourcing. • Please note that we cannot provide any views on who should comply with PASA requirements as we are not responsible for regulating these requirements.

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				intermediary or the collection agent would need to fulfil the PASA requirements.	
12.	**SAIA**	**5.**	**4.1 (1) (b)**	• The SAIA submits, as stated above, that the intermediary should be paid an outsource fee and commission should not be the mode of remuneration for this service. Alternatively, a capped commission for all or some intermediary services collectively performed should be paid and it is not required for any other intermediary service commission amount to be specified. This should mean that intermediaries that are not collecting premium should earn less commission than those who are and those commission splits then need to be remunerated per intermediary function.	Please see our response to comment number 5. In summary, premium collection may be reclassified as outsourcing in future. However, the *status quo* will remain in the interim. Please note that the commission paid to an intermediary is at the discretion of the insurer, provided it remains within regulated restrictions. There is nothing prohibiting an insurer from paying an intermediary who is not collecting premiums less commission than those who are.
13.	**Old Mutual**	**5.**	**4.1 (1)(b)**	We understand that the Intention is still to classify premium collection as outsourcing at a later stage but currently regarded as intermediary services to curb current possible issues. Cognisant of the above, to note, specifying commission is premature until the activity segmentation work has been completed given that the intention is to scope this out of intermediary services. Allowing this will create similar inconsistencies as was experience with implementation of binder fees - we urge the registrar to pend this inclusion at this stage or at least allow longer period of consultation on this so	Your comment stating “specifying commission is premature” is not understood. The current status in law is that premium collection falls within the scope of services as intermediary, and is therefore subject to current commission regulations. All stakeholders will be consulted once steps are taken to propose that premium collection be reclassified as outsourcing. Notwithstanding, please note that regulation 4.1(1)(b) has been delete due to a practical concern raised- please see

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				that we can have adequate time to consult with collecting intermediaries. This will also have system implications (if the premium is motor, then systems must now calculate based on the activity performed (motor, non-motor).	comment number 15 and our response thereto.
14.	**Fulcrum**	**5.**	**4.1(1)(b)**	The written authorisation contemplated in 4.1(1) and further expanded on in Directive 156 must "specify the commission payable by the insurer to the independent intermediary for the services rendered under the authorisation." This requirement (which carries over a current requirement from the existing Regulations) has always created difficulties, confusion and certain unintended consequences: Example 1 In the case of a conventional intermediary that collects premium in addition to rendering other intermediary services, it has the effect of limiting such intermediary's ability to receive remuneration for collecting premium. Although such an intermediary's income is limited to the statutory commission limits, such intermediary must incur the cost of obtaining and maintaining an IGF, must employ people who deal with unpaids, who reconcile accounts and who must also ensure compliance with PASA. This costs money. Yet the intermediary who offers this full range of services can earn no more than the intermediary who does no premium collection at all and who therefore does not incur these additional costs. There is therefore a temptation or an inducement for an intermediary to offer	We note your concern but please note that we are not proposing any changes in this regard. We disagree that it would constitute a temptation or an inducement for an intermediary to offer policyholders less service. We agree with some of the concerns you raise and this is part of the reason why we are considering reclassifying premium collection as outsourcing. However, the *status quo* will remain in the interim.

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				policyholders less service because there is no commercial or financial sense in offering more than the bare minimum. The full-service collecting intermediary finds itself at a commercial disadvantage when compared with a more limited intermediary choosing to offer clients fewer options. This may not have been the intention when the regulations were first drafted and this aspect ought to be considered. The solution proposed under Proposal F could resolve this unintended consequence. Example 2 The specialist premium collection agency also finds itself at a distinct commercial disadvantage; although it performs an intermediary service, it cannot be remunerated for this service by way of commission because the intermediary that introduced the business to the insurer is already earning commission, almost invariably the maximum statutory commission payable. The specialist premium collection agency also must incur significant cost to obtain and maintain IGF guarantees, to employ staff to manage the entire collection process, which involves PASA compliance, including risks associated with being a TPPP (Third Party Payment Provider) or a SO (System Operator) in terms of PASA legislation. In addition, the basis for remunerating specialist premium collection agencies is not clear-cut. Insurers cannot exceed commission regulations, nor can they pay fees for	

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				intermediary services even though that particular intermediary service (premium collection) may not have been provided by the broker to whom they have paid maximum commission. Remuneration arrangements between insurers and specialist premium collection agencies are made unnecessarily complex for the above reasons. It would be preferable for the remuneration of independent and specialist premium collection agencies to be dealt with separately and on a stand-alone fee-for-service basis. In this regard, the removal of premium collection from the ambit of the definition of intermediary services would assist in settling this issue. We propose that this might be achieved on the basis that independent and specialist premium collection agencies are recognized as not being involved in any policyholder-facing interaction and that they do not engage in selling to or advising policyholders.	
15.	**FIA**	**5.**	**4.1(1)(b)**	We acknowledge this to be in line with the regulatory principle of aligning all remuneration to activities performed on a reasonable and commensurate basis. However, it is premature to break out this one function at this point without proper consideration of the entire commission universe. To do so will create significant difficulties, anomalies and hardship. The commission allocation for this activity is not currently segmented and would require a detailed analysis of the full commission payment. If the	We acknowledge that it might be difficult to determine the exact amount of commission attributable to premium collection where the total commission paid to the intermediary is also intended to cover other services as intermediary rendered. Requirement has been deleted.

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				classification of this function is to be moved (ref 2 above) we query the rationale in introducing this new requirement versus the cost and amount of work required to split this out of commission to comply at this early point. This requirement infers that the current level of commission paid for activities (a) and (b)(i) and (iii) of the definition will have to be segmented and separately determined. We submit that this is premature in view of the Activity Segmentation Analysis (ASA) currently under discussion between the FSCA and industry and which will result in a total review of all intermediary activities and the concomitant remuneration tranches for each activity.	
16.	**FIA**	**5.**	**4.1(1) (a),(c),(d),(e),(f)**	We submit that this will inevitably lead to a range of different requirements as insurers specify their own preferences and as such will lead to lack of certainty and increased work and inefficiency in the process. Our suggestion is that the industry, through the SAIA and FIA, be requested by the FSCA/PA to engage on this and develop a common approach and code of practice that will only be deviated from by exception. This exercise should form part of the work and approach proposed under 21. below.	It is unclear why it is a concern that an insurer should determine what processes it requires to effectively mitigate the risk involved in allowing an intermediary to collect premiums on its behalf. We believe these requirements are set at an appropriate level and allow for sufficient flexibility to accommodate the different operating models of insurers.
17.	**SAIA**	**5.**	**4.1 (1) (c) and (d)**	Proposal F of RDR reads as follows: *"Collection of insurance premiums will not be permitted to be carried out by intermediaries in the case of any long-term insurance business or in the case of personal lines short-term insurance business,*	These proposed requirements in effect constitute conduct standards for premium collection, albeit indirectly, through the prescribed requirements of the contract between the insurer and the

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				unless the intermediary complies with prescribed conduct standards for this service. Details of these standards will be consulted on but they will include operational capability requirements and standards relating to remuneration for the service and mitigation of conflicts of interest." • Please advise whether conduct standards for intermediaries who want to collect premiums will be set and if so, whether it will be before the effective date of the Regulations, being 1 July 2018. Please advise whether these conduct standards will provide details on the operational capability requirements that will have to be met by intermediaries who collect premiums, including the nature and frequency of reports from intermediaries to insurers and data access standards.	intermediary, and the insurer's obligation to monitor compliance with these. As further aspects of RDR are rolled out, we will consider introducing additional or revised conduct standards applicable directly to the intermediaries concerned and will consult on any such proposals in the normal course.
18.	**Renasa**	**4.1 (1)**	**4.1 (2) and 4.2**	• In our submission, there is no justification for any party, other than the licensed insurer, to either collect or retain premium monies as it is the insurer alone who has the obligation to provide the indemnity to the policyholder. All premiums should be collected and deposited directly to the bank account of the relevant insurer, irrespective of whether such collection is managed and implemented directly by the insurer, or by means of any other outsourcing arrangement with a premium collection agency. Intermediaries should not deal with premium.	• Comment noted. Seeing that this is a current practice we do not wish to unduly intervene by prohibiting said practice. We do, however, believe that the increased governance requirements will go a considerable way to mitigating the relevant risks. • See response above.

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				• There is no reason or need to retain Section 45 which should now be repealed. Failure to repeal Section 45 and continuing to allow intermediaries to collect and deal with premium results in the industry being exposed to a continued unnecessary risk, particularly if the protection afforded by the IGF security guarantee for premiums collected under Section 45 is abolished. Retaining Section 45 exposes insurers to a significant risk of fraud, theft and misappropriation as past experience has shown. It is not in the interests or either insurers or policyholders that intermediaries receive, collect or deal with premium payable to insurers. • Should the industry persist with the move to terminate IGF guarantees, insurers will be obliged to collect directly into their own bank account to mitigate risk. This process could continue for now and be managed by/through a premium collection agency acting on the instruction of the insurer. However, the operating systems which are responsible for the administration of policies and the collection of premiums in the intermediated market, which are responsible for not less than 20% of all premium income written in the short-term market and which are being administered on these systems, require to be altered to account for premium collection on co-insurance policies and payments of the premiums to more than 1 insurer	• Noted. Please see amendments to Part 4 as well as the transitional provisions that have been provided for in Part 8.

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				in respect of 1 policy. System changes cannot be effected in the required time frame. • It is therefore recommended that the cessation of IGF be deferred pending the required development of the systems in the market to accommodate direct collection into the account of an insurer. We also propose that in the event of the termination of the IGF guarantee arrangement, that simultaneously Section 45 be repealed. This will achieve a situation where it becomes mandatory, after the appropriate system development has been completed, for premium to be collected directly by insurers. • The industry has been exposed to the consequences of fraudulent activities in the past either through maladministration or the risk arising from the fact that persons who are collecting premiums through their bank account do not hold the required IGF standardised guarantee to collect premiums into their own bank account. • In the alternative, if Section 45 is retained, then the insurer must make an election either to collect premiums itself, or if it gives authorisation to another party such as an intermediary to collect on its behalf, what security or guarantee it may require to mitigate the risks associated with such an authorisation.	• Not accepted. It is our understanding that appropriate arrangements will be agreed by the Prudential Authority and the IGF to ensure the orderly run-off of insurance business in place on 1 July 2018. • Noted. • Agreed. That is the proposed approach. However, please note that whether or not the insurer requires security will be the decision of the relevant insurer (i.e. security will not be a legislative requirement).
19.	**FIA**	**5.**	**4.1(2)**	We require clarity around the term "delegate" in the context of the appointment by the intermediary of a	An independent intermediary cannot appoint/authorise another person to

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				bone fide Premium Collection Agency (as agreed with Insurer/s) who will handle the premium collection and where the intermediary will handle the policyholder interventions such as "returned debit orders", etc.?	collect premiums. According to section 45 of the STIA the insurer must authorise the person collecting the premiums. If both parties will receive, hold or in any manner deal with premiums then both parties must be authorised by the insurer concerned and the combined remuneration of all parties may not exceed the prescribed commission caps. This is the current position.
20.	**FIA**	**5.**	**4.1(3)**	Please confirm that collection agencies that are licensed to perform intermediary functions comprise one such independent intermediary in terms of this section.	If a collection agency collects premiums it is performing services as intermediary and would consequently constitute an independent intermediary (unless it is a representative). It follows that its remuneration is also subject to the commission regulations.
21.	**FIA**	**5.**	**4.1(4)**	Please see our comments and recommendations under point 8 above.	See responses under relevant comment above.
22.	**Old Mutual**	**5.**	**4.1(4)(c)**	Request clarification of how policyholders would be compromised s premium collected would be deemed collected by Insurer: Could we have some examples of scenarios that have been previously identified given the existing determining provision that premium received by the authorized intermediary is deemed to be received by Insurer	The insurer will have to monitor circumstances that may arise that could compromise the fair treatment of policyholders. This is a principle based approach and being prescriptive in this regard is not appropriate.
23.	**Old Mutual**	**5.**	**4.2**	In certain instance the bank account is opened in the name of the Insure, please expand requirement to allow for that.	If the bank account is in the insurers name then it would be the insurer collecting the premiums.

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24.	**FIA**	**5.**	**4.2(2)**	This is not currently a requirement and whilst many separate bank accounts do exist there are many instances where premium is collected via bank accounts that are not segregated. We argue that this is not necessarily an increased risk. This was fully motivated on the introduction of the FAIS Act when the requirement for separate accounts was proposed but was removed. In brief such intermediaries are able to segregate monies due to individual insurers (to the cent) from their financial ledgers with full and detailed transactional history; monies collected from policyholders comprise non-premium elements; premium is safeguarded and guaranteed for payment to insurers currently under the IGF (see point 21 below). A change to segregated accounts needs to be fully considered in a holistic engagement around premium collection. In addition to our concerns around the need to segregate, to introduce such a requirement will be practically impossible to implement in such a short lead time as is being proposed.	Partially agreed. We remain of the view that the bank account used for premium collection must be segregated from business accounts. Please see revised Regulation 8.2(1) which now allows other collections from policyholders (in addition to premium), but prohibits the use of the account for the intermediaries business or operational purposes. A 12 month transitional period has also been provided for.
25.	**Fulcrum**	**5.**	**4.2(1)**	Fulcrum Collections understands and supports the intention of this provision, which is the incorporation of section 54(4) of the Act into the Regulations. We believe that it is important that consumer protection measures such as these be supported by a corresponding duty on the part of the instructing intermediary to provide timeous and accurate instructions to the specialist premium	We believe that the proposed requirements should already address your concerns. Firstly, the insurer must directly authorise the parties who will be collecting, holding or dealing with premiums (including the collection agent). According to the proposed requirements, the insurer will have to

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				collection agency to ensure that the correct insurer is paid the correct amount within the correct timeframe. The regulations should enforce this by creating an indemnity for the collection agency that acts according to instruction received. An intermediary that provides no or incorrect instructions should also be held to account in instances where cover is rejected due to non-payment of premium to the relevant insurer. This could be incorporated into FAIS Codes of Conduct. It must be remembered that intermediaries normally instruct a collection agency to collect against a policyholder's bank account. This instruction is received and processed in good faith. If the intermediary fails to instruct the collection agency to pay the relevant premium across to the respective insurer/s then the collection agency cannot perform, resulting in an unacceptable situation. It must be remembered that collection agencies are creatures of instruction and that they do not have insight into the intermediary's underlying policy administration system, making it impossible for the collection agency to know which insurer/s is on risk at a given point in time. We therefore propose that this requirement should be enhanced by creating an obligation on the part of the instructing intermediary to give timeous and accurate pay-away instructions. Failure to do so should not expose the collection agency but should	ensure that if it authorises a person in terms of section 45, such authorisation will not compromise the fair treatment of policyholders. Where an intermediary fails to provide instructions or provides inadequate instructions, the insurer must take remedial action as the authorisation would then compromise the fair treatment of policyholders. Further conduct standards applicable to intermediaries performing administration functions in relation to the premium collection process will be considered as part of the future RDR roll-out.

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				constitute a reportable offence on the part of the instructing intermediary. Similarly, when premium collection becomes an outsourced service, the Outsourcing Directive (Directive 159) should reinforce this obligation by creating a contractual obligation on an intermediary to provide accurate and timely instruction to the premium collection agency. Failure to do so should be a reportable offence and could be viewed as an attempt to obstruct the provision of services to the policyholder who would not have insurance cover if premium were not received by the correct insurer. The accountability for providing correct payment instructions should be incorporated into FAIS legislation, as suggested above and should also follow from the intermediary's FAIS (and TCF) obligations, bearing in mind that the collecting agency, apart from not being privy to the relevant underlying policy information, would not have such obligations as an outsource service provider and a non-FSP.	
26.	**SAIA**	**5.**	**4.2 (2)**	• The SAIA submits that the account should be an interest bearing bank account and such premium must remain in the account for the full duration of the time that the premium is in the possession of the intermediary. The bank account statement must be available for the insurer to inspect including the interest earned.	• The insurer who authorises the person to collect premiums can include this requirement in the authorisation.

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				• We further submit that no money should be transferred from such bank account to any other bank account of the intermediary subject to Regulation 4.2 (7) without the written consent of such insurer.	• Noted. The proposed Regulation 4.2(5) already provided for such a requirement. However, in the context of the comments received this requirement has been revised and now provides that the authorisation provided by the insurer must specify for which purposes the premiums may be used and that such purposes may not significantly increase the insurer's risk. It is therefore in the discretion of the insurer to specify that premiums received into the collection account can only be transferred to the insurer concerned.
27.	**SDK**	**5.**	**4.2(2)**	Wording error"….premiums properly and promptly and open and maintain…."	Unclear what the wording error is that you are referring to.
28.	**Monarch**	**5.**	**4.2(2) and (3)**	We respectfully request that Regulation 4.2 (2) and 4.2 (3) be revised as indicated below. We support the aims and objectives of the Insurance Act and the Financial Sector Regulations Act and are committed to implementing these fairly and justly to both consumers and financial services providers. However, we have noted a matter in the proposed amendments to the Regulations in terms of the Short-Term Insurance Act that was published for public comment on 23 March 2018, which directly affects both consumers and financial services providers.	Agree that this raises a practical concern. Please see revised Regulation 4.2(2) which now allows other collections (in addition to premium), but prohibits the use of the account for the intermediary's business or operational purposes. A 12 month transitional period has also been provided for. Where practical considerations still exist, this can be dealt with through an exemption mechanism which has been provided for in the Regulations.

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				Background 1. Monarch Insurance Company Limited ("Monarch") is a registered short-term insurer. Lewis Stores (Pty) Ltd ("Lewis") offers Monarch's insurance products to its customers, when purchasing furniture on credit. Lewis offers credit to its customers in terms of the National Credit Act ("NCA"). Lewis is an authorised Financial Services Provider ('FSP') and the non-mandated intermediary of Monarch. 2. Lewis Group Limited (the "Group") is a listed holding company which owns Lewis, which in turn owns Monarch. The Group has been designated as an Insurance Group. This submission is on behalf of Monarch, Lewis and the Group. 3. The matter that, in our respectful view, has not been appropriately addressed is that instalments received by an intermediary who is a credit provider registered under the NCA include payment components other than insurance premiums, such as capital, interest and other fees/services. 4. In short, the amendments as proposed by Section 4.2 (2) and (3) ("**the amendments**") cannot be practically implemented by credit providers who collect insurance premiums as part of the instalments under a credit agreement. Separate receipting and banking of premiums by an	

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				intermediary as suggested in the proposed amendments is therefore not a practically viable solution to tighten controls regarding premiums received by independent intermediaries that are also credit providers. **<u>The issue</u>** **5. The issue regarding the amendment of Section 4.2 (2) and (3):** 5.1. The second part of Section 4.2 (2) states: *"and open and maintain one or more separate bank accounts designated for receiving and remitting premiums only."* *5.2.* Section 4.2 (3) states: *"All premiums received by an independent intermediary –* • *(a) through electronic means must be received into a bank account referred to in subregulation (2);* • *(b) in cash must be deposited into a bank account referred to in subregulation (2) within 2 business days after a premium is received."* 5.3. In our respectful view, the amendments, Section 4.2 (2) (second part) and Section 4.2 (3) does not cater for payments where the premium is only a component of a composite payment by the customer. As in the case of FSPs in the Credit Retail Industry where instalment payments in terms of NCA include the insurance premium.	

				6. The issue regarding the deletion of the current Section 4.1 (2): 6.1. We refer specifically to the proposed deletion of Section 4.1 (2) of Part 4 of the current Regulations to the Short-term Insurance Act. Currently intermediaries who receive premiums on behalf of an insurer may provide security in the form of a Guarantee Policy (IGF Guarantee) to cover the insurer should the intermediary default in paying over the insurance premium due. This dispensation allowed FSPs who were credit providers to bank the premium into their own corporate bank account (Refer Part VIII - Section 10(3) of the FAIS Code of Conduct) and not into a separate bank account due to the technical difficulties discussed below. **<u>Submission</u>** 7. **Credit providers – credit agreements – Instalment consisting of components:** 7.1. Many consumers do not buy goods for cash and purchase on credit, in terms of the NCA, allowing them to pay for the purchased goods over time by way of instalments. 7.2. The NCA allows a credit provider to require a consumer to maintain credit insurance during the life of the credit agreement. Consumers accordingly take out credit insurance as required for such a credit transaction. In terms of the NCA and for the convenience of consumers, the monthly instalments due to a credit provider under the credit agreement includes a host of components, for example, the cost of an item purchased and fees and	

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				charges as prescribed in the National Credit Act, i.e. services selected, interest, service fees and charges; and also insurance premiums. 7.3. Section 126(3) of the NCA clearly sets out the manner in which any payment received from a debtor, is to be allocated. This section is clear in requiring a credit provider to first allocate any payment received to any due or unpaid interest charges. If there is any remaining amount left from the payment made by the debtor, it is allocated to satisfy any amount due or remaining unpaid in relation to fees and charges (including insurance premiums where applicable) and only then towards principal debt. Therefore, as the NCA regulates how instalments paid are to be allocated in Section 126 of the NCA the premium component relating to the instalment is impossible to calculate at the time of receipt, where a customer's account is in arrears or a customer makes a partial payment. 7.4. Credit instalments due are paid in cash or by electronic means and are receipted by the credit provider. Insurance premiums charged are added to the outstanding balance of a customer monthly. The credit provider pays the insurance premium to the	

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				insurer as it falls due, regardless of whether the insurance premium was paid by the customer. The credit provider therefore provides prefunding to assist the customer in ensuring that the required cover remains intact. Prefunding can continue for as long as the credit provider is willing to accommodate a customer being in arrears. This is usually between 3 to 6 months, or longer depending on the policy terms. 7.5. Premiums are levied at the beginning of a month and usually paid by a customer at the end of a month as part of the credit agreement instalment. Credit provider's systems, as part of month-end procedures, then allocates the instalment to the various component parts during the month-end debtor assessment prior to sending statements to customers. If a customer is not completely up to date with instalments it is an extremely complex procedure to allocate payments. The procedure follows 7.3 above. 7.6. It is virtually impossible to separately receipt premiums into a separate bank account at the time of receipt because of 7.3 and 7.4 above. This applies similarly to cash received, electronic fund transfers and debit orders. The electronic payment also includes a host of components to be	

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				allocated before the insurance portion is known. This only takes place at month-end. 7.7. The proposed Section 4.2(2) & 4.2(3) effectively requires FSPs who are credit providers to separate payments received into their component parts at the time of receipt to process payments into various bank accounts. This will require major program changes and it will be extremely difficult and very costly for FSP's to reform their systems. 7.8. Not being able to make one instalment payment, will confuse consumers and hinder their right to an efficient payment system and be much more costly. Customers' statements of account certainly need to reflect the total instalment paid in terms of the credit agreement i.e. the R200 instalment which includes a R27 insurance premium, for example. To track down the R27 in another bank account is simply not feasible. 7.9. Credit insurance is highly relevant to the South African financial market and FSP's should be allowed to continue providing such products in a responsible manner. The outcome of the amendments to the Regulations should not be to disrupt FSPs in the credit retail industry with complex banking arrangements that do not add	

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				protection, but just add to the cost and complexity. Furthermore, the insurance premium is a small element of the customers instalment as can be seen in 7.8 above. ***Objection*** 8. The proposed treatment of premiums received represents a significant departure from current legislation. It appears that due consideration may not have been given to the consequences in the Credit Retail Industry. We strongly believe that the proposed amendments will completely disrupt the Credit Retail Industry, and that the correct and fair course of action would be to allow intermediaries to continue receipting premiums into their own corporate bank account in the circumstances described below. ***Our proposal*** 9. We respectfully propose that Section 4.2 (2) & Section 4.2 (3) regarding premiums received by an intermediary into a separate bank account, be revised to exempt the following intermediaries from the requirement: • A credit provider registered in terms of the National Credit Act, 2005. • An intermediary that forms part of the same 'Insurance Group' as defined in terms of the Insurance Act;	

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				• An financial services provider which forms part of the same Financial Conglomerate as defined in terms of the Financial Sector Regulations Act.; or • If an intermediary is a credit provider and has a Guarantee Policy in place. ***Further support for our proposal*** 10. The proposed Section 4.2 (1) already sufficiently protects policyholders, as premiums received by the intermediary are deemed to be received by the insurer. It clearly creates a legal liability for the insurer to account for premiums once received from customers by the intermediary irrespective of which bank account the premium is deposited into. The consumer is not compromised should the premium not be paid to the Insurer. The Insurer is legally bound to honor the receipt of the premium, and the intermediary will be held accountable by the insurer if this amount is not paid over. 11. Allowances should be made for a FSP in the same group as the insurer. Insurance Groups and Financial Conglomerates already have: • Systems, processes and procedures to properly account for premiums; • Governance structures in place to monitor premium receipts; and	

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				• Group supervision and reporting requirements to the Prudential Authority and the Financial Sector Conduct Authority. We trust that due regard will be had to these submissions. We will gladly make ourselves available at any time should you wish to meet or call to discuss any aspects raised in this submission.	
29.	**Insure Group**	**5.**	**4.2(2) to 4.2(5)**	<u>The Main Representation</u> The Statement on the Proposed Amendments to the proposed Amendment of the Regulations ("the Statement") acknowledges that – (a) A policy decision has already been taken to remove the requirement for security in the form of a guarantee policy. (b) Some of the existing premium collection arrangements between the short term insurers and independent intermediaries will not be consistent with the Amendments and that such arrangements will have to be restructured. (c) The new requirements have the potential of having a significant impact on the long terms and short term insurance industry. The Statement states that notwithstanding the potential impact National Treasury is of the view that the need for and resultant benefit of these improved requirements outweigh the possible costs of complying with the new requirements.	

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				The Regulations were promulgated and the Statement made without any consultation with Collection Agents including IGM. The statements from the Statement are understated, have not taken all factors into account, have not taken into account the impact of the Amendments on Independent Intermediaries who collect premiums ("Collection Agents") and the fact that if implemented will have a devastating effect on premium collections and the premium collection industry. The proposed Amendments are not necessary to curb any limited abuse in the Short term premium collection industry. Continuance with the proposed Amendments is irrational and unconstitutional. It is submitted that what should occur is – (i) The present system of security in the form of a guarantee policy ("security guarantee") should continue for Collection Agents. (ii) Alternatively if the proposed Amendments are to be adopted that there should be an alternative thereto that a security guarantee may be given in lieu of compliance with the Amendments for Collection Agents. (iii) Further alternatively that if the proposed Amendments are to be adopted that they be amended to reduce their negative impact and that there should be a reasonable lengthy transitional period (approximately 60 months).	It is unclear why you state that consultation has not taken place. The reason why draft amendments are published is exactly for this reason, i.e. to elicit input from all stakeholders. Please also note that the RDR Proposal F, which proposed the types of issues on which standards for premium collection would be based (although we acknowledge that these proposals did not extend to specific conduct standards), was consulted on as far back as late 2014. Your contentions are noted. It is however unclear why you state that the proposed amendments are irrational and unconstitutional. Please refer to our response to comment 7 above. It is not clear what you mean by saying that there should be an alternative. An alternative to complying with the Regulations? The extent to which the proposed requirements will be amended is dependent on all comments received through the formal consultation process. Appropriate transitional provisions will be

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				4.2(2) to 4.2(5) The proposed sub-regulations 4.2(2) to 4.2(5) should be omitted as these bring an unnecessary level of complexity to the management of premiums collected on behalf of short-term insurers and will result in the current practices in the market becoming impossible of performance. Such a result will, inter alia, be contrary to the undertaking given by Treasury in the Statement at paragraph 2.3 (Premium collection framework) under the heading "Development of the premium collection framework appropriate to evolving market practices" (page 4) which states: In addition to aligning the requirements relating to premium collection in the LTIA and STIA, there is a need to address certain abuses that have been identified through supervision. Further to this it is essential that the regulatory framework for premium collection remains relevant to current practices in the market. To this end it was necessary to review the current framework set out in Regulation 4 of the STIA Regulations and further develop the framework to ensure that it remains appropriate for evolving market practices. Current legislative provisions S 10(1)(d) of the General Code of Conduct for Authorised Financial Services Providers and	provided for. However, 60 months is unduly long. Please note that the proposed Regulation 4.2(4) (now regulation 4.2(5)) is an existing requirement in the STIA and it is not clear why this requirement should be omitted. With regards to the proposed Regulations 4.2(2), (3) and (5), we note your assertions, however, you do not provide detailed inputs on exactly how the proposed requirements will result in practices in the market becoming impossible of performance. Lacking this understanding it is difficult for us to consider how the proposed amendments should be revised in such a way that it still provides a suitable outcome in the interests of policyholders. Notwithstanding, please see the revised amendments to the proposed Regulations 4.2(2), (3) and (5).

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				Representatives provides that a provider who receives or holds financial products or funds of or on behalf of a client must account for such products or funds properly and promptly and open and maintain a separate account, designated for client funds, at a bank and- (i) must within one business day of receipt pay into the account all funds held on behalf of clients; (ii) ensure that the separate account only contains funds of clients and not those of the provider; (iii) pay all bank charges in respect of the separate account except that bank charges specifically relating to a deposit or withdrawal of the funds of the client are for the client's own account; and (iv) ensure that any interest accruing to the funds in the separate account is payable to the client or the owner of the funds; S 10(3) of the General Code of Conduct for Authorised Financial Services Providers and Representatives provides that Section 10 (1) (d) is not applicable to a provider who, inter alia, is subject to section 45 of the Short-term Insurance Act, 1998 (Act No. 53 of 1998), if the provider complies with the requirements contemplated in that section. Section 10(1)(d) is accordingly not applicable to Collection Agents.	Your comments relating to section 10 of the General Code of Conduct are noted. However, the evolving landscape has resulted in the legislature reconsidering the position originally adopted in terms of the General Code of Conduct. Corresponding amendments to the section 10 of the General Code of Conduct will be given effect to.

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				S 10(1)(e) of the General Code of Conduct for Authorised Financial Services Providers and Representatives provides that a provider who receives or holds financial products or funds of or on behalf of a client must account for such products or funds properly and promptly and take reasonable steps to ensure- (i) that at all times such financial products or funds are dealt with strictly in accordance with the mandate given to the provider; (ii) that client financial products or funds are readily discernible from private assets or funds of the provider; and (iii) that, subject to any applicable contractual or statutory provisions, a client has ready access to any amount paid into the separate account, less any deductions which are authorised, and charges and fees required or authorised to be paid by law. S 10(e) remains binding on all intermediaries who collect premiums on behalf of insurers. These specific provisions, and in particular the exemptions contained in S 10(1)(3), were taken into account by the legislature at the time of promulgation of this Code and included by implication, an acknowledgement of practices in the market that had been employed since the inception of the Short-Term Insurance Act, 1998 in January 1999 and, arguably, before that date.	

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				RDR Proposals The Retail Distribution Review, 2014 Proposal F provides: Collection of insurance premiums will not be permitted to be carried out by intermediaries in the case of any long-term insurance business or in the case of personal lines short-term insurance business, unless the intermediary complies with prescribed conduct standards for this service. Details of these standards will be consulted on but they will include operational capability requirements and standards relating to remuneration for the service and mitigation of conflicts of interest. The RDR General Status Update, 2015 contains the following statement (paragraph 2.4.1(c)): The FSB intends to proceed with Proposal F regarding standards for premium collection, and consultation with the industry reference groups for both long-term risk and short-term insurance will take place regarding who should be a "qualifying intermediary" and the standards for such intermediaries. Consultation will include discussion on the circumstances in which intermediaries in so-called non-traditional insurance markets could be permitted to collect insurance premiums.	Your comments regarding RDR are noted. These proposed Regulations in effect constitute conduct standards for premium collection as contemplated in RDR Proposal F, albeit indirectly, through the prescribed requirements of the contract between the insurer and the intermediary, and the insurer's obligation to monitor compliance with these. These Regulations should therefore be seen as part of the implementation of Proposal F. As further aspects of RDR are rolled out, we will consider introducing additional or revised conduct standards applicable directly to the intermediaries concerned and will consult on any such proposals in the normal course.

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				The RDR General Status Update, 2016 contains the following statement (paragraph 3.3(b)): In line with RDR Proposal F, our intention remains to limit premium collection only to intermediaries who meet specific qualifying criteria. [. . .] The qualifying criteria for premium collection will therefore have a similar emphasis on governance, oversight, operational efficiency and fair customer outcomes to the broader outsourcing standards – together with specific operational requirements to safeguard the money collected. The various RDR proposals emphasise the imposition of qualifying standards on intermediaries who collect premiums. The remaining provisions of the proposed Amendments will require additional due diligence and the potential for further regulation of this relationship by way of qualifying standards being established by the Conduct Authority, will suffice to minimize the risk associated with premium collection. Furthermore, it is submitted that the proposed consultations with the industry reference groups for both long-term risk and short-term insurance regarding who should be a “qualifying intermediary” and the standards for such intermediaries have not taken place and this is considered to be an essential requirement that must be observed before Amendments of the nature proposed can be finalized.	

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				Although proposed Regulation 4.1(1) permits an insurer to authorize an intermediary to *"receive, hold or in any other manner deal with a premium payable under a policy…",* these new Regulations take away the insurer's ability to authorize, and the intermediaries ability, to *in any other manner deal with a premium…* These regulations strike at the ability of the intermediary to be paid interest on premiums received, depriving the intermediary from benefiting therefrom. The interest earned on the investment of premiums has, historically, been for the benefit of the intermediary. The regulatory requirement was always to pay the premiums collected to the insurer with no mention of interest, or any other financial benefit, that could lawfully be earned on the premiums in the period between receipt thereof by the intermediary and the payment over to the insurer within the regulated time frame. The wording of these Regulations requires the bank account to be a transmission account on which interest, if banks pay interest on such accounts, will be minimal compared to the return on a money market account, apart from which, how is such	It is not clear what you mean by saying that the Regulations take away the insurer's ability to authorise, and the intermediaries ability, to *in any other manner deal with a premium.* It is also not clear why you state that the Regulations strike at the ability of the intermediary to be paid interest on premiums received, depriving the intermediary from benefiting therefrom. On that note, please note that it has always been our view that because the premiums/money the collecting intermediary receives is that of the insurer, there is no justification for the collecting intermediary to retain interest earned on the money. Please note that the Regulations do not specify that the bank account must be a

No.	Commentator	Reference in the Government Notice	Regulation	Comments/inputs	Response
				interest to be accessed? Although an independent intermediary may reduce the amount payable to the insurer as provided for in 4.2(7) it is also required to pay the insurer the total amount of the premium (4.2(6)). There is thus no provision of how the independent intermediary is to obtain the amounts in 4.2(7). There is also no provision in the Regulation for the deduction of Bank account charges. In the light of the restrictive wording of Regulations 4(2), 4.2(4) and 4.2(5) how can effect be given to paragraphs 4.2(7)(a) and (b) as the payments therein referred to are not "premiums" but either refunds on behalf of the insurer or consideration payable to the intermediary.	transmission account. Our comment above regarding interest also refers. Please note that the proposed Regulation 4.2(6) was subject to the proposed Regulation 4.2(7), meaning that the requirements of Regulation 4.2(7) apply over the requirements of Regulation 4.2(6). Put otherwise, the requirement to pay the total amount of premium is subject to the deductions contemplated in Regulation 4.2(7). Please note that the existing Regulations also do not make provision for the deduction of bank account charges. Comment not understood. Regulation 4.2(7) provides for certain deductions that can be made from the total premium. Also, please note that this is an existing requirement.
30.	**Santam**	**5.**	**Part 4 Reg 4.2(5)**	The draft amendment is very restrictive and we propose a greater degree of flexibility in the transfer of the funds. Propose the following amendment: "A premium received or deposited into bank account……may only be transferred, <u>unless otherwise agreed to with the particular insurer</u>, to the insurer for whom the premium is intended…."	Comment noted. Please note that the proposed Regulation 4.2(5) has been deleted and Regulation 4.1 has been amended to provide that the authorisation provided by the insurer must specify for which purposes the premiums may be used, and that such purposes may not significantly increase the insurer's risk. It is therefore in the discretion of the insurer to specify for

No.	Commentator	Reference in the Government Notice	Regulation	Comments/inputs	Response
					what purposes premiums may be used and we believe that this provides the necessary flexibility. ✐
31.	**SDK**		**4.2(3)(b)**	2 business days. This is in conflict with FAIS 10(1)(d)(i) which states within one business day?	✐ Agreed. Amendment made. However, please note that the evolving landscape has resulted in the legislature reconsidering the position originally adopted in terms of the General Code of Conduct.
32.	**Fulcrum**	**5.**	**4.2(5)**	Fulcrum notes the proposal to restrict the use of premium collected in the following terms, "… premium received or deposited … may only be transferred to the insurer for whom the premium is intended and may not be utilised or transferred for any purpose other than remitting the premium to the insurer concerned". This is a new requirement and appears to reflect an intention on the part of the Regulator for premium to be treated in a manner similar to trust monies. This, therefore, appears to be a proposal aimed at the safeguarding of the insurer's – and the policyholder's – assets to the maximum extent possible. This motive is understandable, however certain legal and practical realities related to the receipt or deposit of money need to be clearly understood: 1. In the first instance, not all money received or deposited is readily identifiable as "premium". Money received or deposited may relate to non-insurance benefits or may be an advance payment in contemplation of what may eventually become due and payable as	Your comment is noted. The intention with the requirement is to avoid the untenable risk created by persons collecting premiums and using them for inappropriate purposes such as personal investment purpose and in business ventures (a known practice), or generally as a source of profit. It has come to our attention that premiums are used not only for operational functions but are also invested in instruments which are insufficiently liquid and are in some instances used to fund loans to third parties. The Insurer to whom the premium belongs is also not aware of the practice and has not given its permission for these specific uses. For this reason premiums received must be segregated and the intention is that it should not be used for commercial

No.	Comment ator	Reference in the Governm ent Notice	Regulation	Comments/inputs	Response
				premium under a future policy yet to be issued, some deposits are due to errors or mistakes on the part of the depositor, certain deposits relate to excesses, franchises or other first amounts payable under a policy, etc. 2. More importantly, the intermediary is the usual party that gives a collection agency the instruction to collect a sum of money from an accountholder. The collection agency does not know, and is not privy to, the underlying legal basis for that collection. For instance, there may be one or more policies being collected. There may be one or more insurers involved in underwriting a particular policy. It is therefore impossible for the collection agency to immediately identify whether a sum of money received or deposited belongs to a particular insurer. This instruction is provided at a later stage by the intermediary who will provide detailed instruction to pay a specific amount of money to a specific insurer or insurers (or other non-insurance parties) in respect of a particular policy, policies or other contractually agreed services. This makes it impossible for money to be immediately identifiable in the manner envisaged. 3. The Regulations currently envisage the status quo in terms of allowing premium to be held until the 15th of the month following the month of collection. This means that, subject to the agreements concluded between insurers and intermediaries, intermediaries may continue, under current regulation, to instruct their collection agencies to effect payment to	purposes. Notwithstanding, we have deleted the proposed Regulation 4.2(5) and Regulation 4.1 has been amended to provide that the authorisation provided by the insurer must specify for which purposes the premiums may be used, and that such purposes may not significantly increase the insurer's risk. It is therefore in the discretion of the insurer to specify for what purposes premiums may be used and we believe that this provides the necessary flexibility. We expect that persons who collect premium have adequate systems in place to recognise that the money received constitutes insurance premiums. It is concerning that this is currently not the case. Please note that we have no intention of changing the common law regarding the fungibility of money, but are simply seeking to ensure that money collected for purposes of premium payments is appropriately identified as such and not mixed with the intermediary's own funds or used for other purposes.

No.	Commentator	Reference in the Government Notice	Regulation	Comments/inputs	Response
				insurers only on the 15th of the month following the month of actual collection. This means that a collection agency, for example, would only know the insurer to whom it must effect payment at that time. This makes it practically impossible for a collection agent to know with any accuracy or precision, to whom it will ultimately be making payment. The instructing intermediary must take accountability and legal responsibility for this since it is a matter uniquely in their knowledge and control. Significantly, this problem will be avoided under an outsource arrangement, where premium is deposited directly into the insurer's bank account. 4. Collection agencies do not have access to the underlying policy information that form the legal basis for the collection and for the payment. This information is, again, uniquely in the knowledge and control of the instructing broker. If, therefore, an instructing broker makes a mistake and instructs payment to the wrong insurer, or instructs payment of the wrong amount or, even, fails to provide instructions at all, it would be impossible for the collection agency to rectify this because the underlying information is not available to the collection agency. This fact places the collection agency at a disadvantage and, although many try to mitigate these risks contractually, this is not always ideal and should be dealt with in the regulatory framework. 5. The legal nature of money is that it is a fungible. When mixed with other money, it	For new requirement a 12 month transitional period has been provided for (with the exception of Regulation 4.1(4)). Existing requirements will take effect immediately.

No.	Comment ator	Reference in the Governm ent Notice	Regulation	Comments/inputs	Response
				becomes indistinguishable. In general, a depositor does not have the right to demand from its bank the exact notes and coins that were deposited with the bank. If the intention is to change this common law position, then this must be made clear and safeguards must be built into the provisions to protect the parties, including the collection agency. This may involve the fundamental restructure of policies so that each insurer under a jointly underwritten policy receive a separate debit and that these are separately identifiable. The impact of such a proposal should be tested with consumers, with intermediaries and with insurers. As a simplistic example, SASRIA premium would have to be separately identifiable. This could only be done by splitting the current debit order instruction into its component parts in order to achieve the identifiability that is sought. Intermediaries would have to effect this with each policyholder and would have to provide this instruction to collection agency at the time of collection. Where premium is deposited directly into the insurers account under an outsource arrangement, the money can be more easily allocated by the insurer which ought to have or have access to the underlying policy information. Therefore, the insurer would hold only its own premium, which will not be affected by the fungible nature of the amounts collected. 6. Some collecting intermediaries that have their own IGFs as well as collection agencies have utilised or transferred	

No.	Commentator	Reference in the Government Notice	Regulation	Comments/inputs	Response
				money collected to achieve improved capital efficiency in their businesses (such as to achieve better interest rates, etc). This proposal will affect such practices going forward. Care will have to be taken that a suitable transition period is granted to allow business arrangements and agreements to be concluded on the new basis going forward. For all the reasons set out above, this proposal implies a number of consequences, some of which may be unintended consequences. In the interests of minimising risk and disruption, further thought should be given to the real mischief that this proposal seeks to eliminate. If it is considered necessary to circumscribe the common law position by limiting the fungibility of money in the case of insurance premium, careful consideration would need to be given to existing practices and to minimising any negative impact on the respective businesses in question. In such a scenario, consideration should be given to a suitable timeframe that will allow a managed transition to the new dispensation to minimise the disruption and other risks associated with such a proposed change.	
33.	**Innovation Group**	**5.**	**4.2 and 4.2(6)**	• Will the interest accrued on the premiums received during the month (in which they were collected) in the specified account belong solely to the insurer? • Can the insurer decide that the interest accrued be retained by the intermediary collecting the premiums?	See response below.

No.	Commentator	Reference in the Government Notice	Regulation	Comments/inputs	Response
34.	**SAIA**	**5.**	**4.2 (6)**	This Regulation is silent on the interest earned in the bank account from such premiums. The clause needs to specifically state whether the intermediary can then transfer the interest to their own bank account once such premium is paid or the interest must be transferred to the insurer as well. If the interest may be retained by the intermediary, then the commission caps are being breached if the full commission amount allowed under law is being paid to such an intermediary. We re-iterate that an outsourced fee should be paid for this function and that the interest and premium belongs to the insurer. The fee should be agreed and also be commensurate with the service being rendered.	Noted. However, please note that it has always been our view that because the premiums/money the collecting intermediary receives is that of the insurer, there is no justification for the collecting intermediary to retain interest earned on the money.
35.	**Fulcrum**	**5.**	**4.2(7)**	The provision as currently stated is carried over from the existing regulations. Collection agencies sometimes face the argument from intermediaries and from certain insurers that binder fees, in particular, can also be deducted from the net premium paid across to insurers. We do not believe that this is a correct interpretation, nor do we believe that this is the intention of the legislation and regulation. However, it would be useful if this were to be clearly stated. In our experience many brokers continue to deduct binder fees from the premiums due and payable. We would request that the Regulator provide clarity in this respect.	Noted. However, in our view the wording is clear and we therefore agree with your interpretation that only commission payable to the collecting intermediary can be deducted from premiums (and refunds as stipulated in regulation 4.2(7)(a)). No changes to the current requirement will be proposed at this stage.
36.	**Santam**	**5.**	**Part 4 Reg 4.2(6)**	Proposed amendment: “An independent intermediary must within a <u>period of 30 days after receipt of premium</u>, pay to the	This would constitute a change to the current requirement, which we do not believe is necessary at this stage.

No.	Commentator	Reference in the Government Notice	Regulation	Comments/inputs	Response
				insurer concerned the total amount of the premiums received.”	
37.	**Santam**	**5.**	**Part 4 Reg 4.2(7)**	In light of the fact that premium collection and handing will be regarded as an outsourced activity in the future, insurers should be allowed to set-off remuneration payable to the third party where such third party is the binder holder or outsourced third party Propose the following amendment: “ …… (a)…. (b)….; and (c) Any other remuneration that may be payable by the insurer to the independent intermediary in terms of a written agreement between that insurer and intermediary.”	Noted. However, this is an existing requirement and no changes to the current requirement will be proposed at this stage.
38.	**Insure Group**	**5.**	**4.2(7)**	Although the wording of the proposed Regulation 4.2(7) is similar to the wording of the current Regulation 4.3(1)(b) it is submitted that the wording be amended to reflect the situation as it occurs in practice. In many instances the intermediary who collects the premiums is not the same intermediary to whom commission is payable. In current practice, the collecting intermediary does not earn commission for rendering the intermediary service of collecting and accounting for the premiums concerned. Commission is earned by a second intermediary who was responsible for rendering the intermediary service the result of which was that	Noted. However, see response directly above.

No.	Commentator	Reference in the Government Notice	Regulation	Comments/inputs	Response
				another person has entered into, varied or renewed a short-term policy. It is proposed that the wording be amended to read: (b) any consideration payable by the insurer for rendering services as a intermediary in respect of the policies concerned.	
39.	**SAIA**	**5.**	**4.3(1)(b)**	The SAIA submits that this Regulation should include the interest earned on the premium in the separate bank account being held by the intermediary.	The Regulation states the minimum requirements that must be contained in the return. The insurer can require additional requirements to be contained in the return, such as interest earned.
PART 5A **LIMITATION ON REMUNERATION FOR SERVICES AS INTERMEDIARY**					
40.	**FIA**	**6(a)**	**5.2**	In this context we assume the insurer's obligation to pay commission to the intermediary is triggered by receipt of the premium by or on behalf of the insurer i.e. when the premium is received by the intermediary. This trigger is important for financial income recognition principles and as a trigger for "time of supply" in respect of VAT.	Noted. However, please note that this is an existing requirement. The only amendment to this Regulation was the removal of the following "~~short-term~~ insurer ~~or Lloyd's broker~~".
41.	**Insure Group**	**6(a)**	**5.2**	5.2 A vast improvement that can be made is for Commissions to be paid on receipt by the intermediary. As proposed (and if enforced) the proposal totally inequitable. It has likely not been picked up by FIA in their FIA Comparison as the regulations remain "the same".	Noted. However, seeing that this is an existing requirement we are not proposing any changes at this stage. Further, an argument could potentially be made that commission becomes payable as soon as the intermediary collects the premium because collection by the intermediary is deemed to be collection by the insurer concerned (by virtue of

No.	Comment ator	Reference in the Governm ent Notice	Regulation	Comments/inputs	Response
				However the revised proposed regulations now present an opportunity to “right a wrong”. This was a clear regulation miscarriage in 1998 which is why the market cannot accommodate it. Enforcement would be massive risk to cash flows of the industry. It means that only persons able to sustain for 3 months on a revolving business can operate. In an FSP that is growing and and scaling this is an impediment to operational ability. Not having sufficient funds to operate is a breach of the FAIS code of Conduct. This affects the intermediaries that have any growth potential and the severely constrains the ability of the sector to create jobs. The reason for this is intermediaries that are not on insurer legacy mainframes are much more agile in being able to innovate. However this will only be available to Intermediaries that can operate awaiting insurers settlement. This is highly detrimental to BEE entrants as it means that their businesses are not scalable. As 97% of small start-up businesses fail it means viable independent BEE FSPs cannot get out of the starting blocks and remain “tied” and dependent on one or two insurers. Alternatively the insureds are put in jeopardy by the Intermediary making early premium payments in desperation to receive commission. The actions of persons accounting for premiums should never be influenced by financial constraint on the part of FSPs (or Insurers).	Regulation 4.2(1), previously section 54(4). If this interpretation is adopted, commission becomes payable as soon as the independent intermediary receives the premium and this could be agreed to by the insurer and stipulated in the contract. However, please note that regulation 4.2(7) will still need to be complied with.

No.	Commentator	Reference in the Government Notice	Regulation	Comments/inputs	Response
42.	**Fulcrum**	**6(c)**	**5.4**	Reversal of commission The commission clawbacks in short-term is not as well enforced as is the case in the long-term industry. Where short-term brokers renew annual policies and feel they have done a lot of work to renew the policy (and therefore that they have earned the commission) they are reluctant to refund commission if the policy is cancelled mid-term. Insurers also do not consistently force the clawback and leave it to the brokers to fight over the matter. This is not necessarily desirable or in consumers' best interests.	Noted. Please note that this is an existing requirement. The only amendment to this Regulation was the removal "short-term" and "Lloyd's broker". If insurers are not enforcing claw back in terms of Regulation 5.4 they are in contravention of the Regulations and should be reported.
43.	**FIA**	**6(c)**	**5.4**	This has long been a point of contention that should now be engaged on further. Intermediaries contend that commission is not earned equally across the (say) annual term of a policy. A major portion is earned in the sales process. So to refund on a strictly pro-rata basis is not equitable. This is in line with the FSCA's thinking in respect of sales vs ongoing functions. We request that this be engaged on further.	Noted. See response above.
44.	**SAIA**	**6(c)**	**5.4**	Insurers occasionally reverse premium to provide a cash back to the policyholder at the end of an underwriting cycle. It is proposed that when a reversal of premium occurs for this purpose, commission paid to the intermediary should not be reversed in this instance. This reversal is not made due to a reversal of cover but as a result of good underwriting results.	Noted. See response above.
PART 5B LIMITATION ON REMUNERATION FOR BINDER FUNCTIONS					

No.	Commentator	Reference in the Government Notice	Regulation	Comments/inputs	Response
-	-	-	-	-	-
PART 6 BINDER AGREEMENTS					
45.	**SAIA**	**7(a)**	**Definition of "commercial lines" 6.1**	Where a "joint" policy (i.e. personal lines cover included as "accommodation business" on a farmers' policy) is issued to a policyholder, please advise whether the policyholder will be deemed a commercial or a personal lines client.	More specific details are required before we can issue a definitive view.
46.	**SAIA**	**7(c)**	**Definition of "insurer" 6.1**	Please clarify whether a Lloyd's binder holder will be deemed to be included in the definition of insurer.	A binder holder cannot be the insurer. A binder holder is an agent of the insurer.
47.	**SDK**	**-**	**6.1 definition "Representative"**	"… has the meaning assigned to it in Part 1 but excludes an employee of an insurer" The differences in definition of the term to Part 1 will create uncertainty as to what the definition of a representative should be. Part 1 can be a person working for an insurer but not in Part 8? The intent is understood but having two definitions causes definite uncertainty.	Your concern is noted. However, please note that this is an existing definition and the term is defined differently in the respective Parts with a specific purpose. No changes were proposed in this regard.
48.	**SAIA**	**7(f)**	**Definition of "transformation in the insurance sector" 6.1**	We propose that the definition be more prescriptive that the binder holder shall comply with the insurer's Preferential Procurement and; Enterprise and Supplier Development policies and practices when appointing service providers in order to participate in advancing transformation of the insurance sector. The binder holder should only at the discretion of the insurer appoint its own suppliers with respect to claims relating to policyholders of the insurer.	In order to avoid regulatory arbitrage this definition cross-references to the definition in the Insurance Act. The definition in the Insurance Act will therefore have to change if the definition is to become more prescriptive.

No.	Commentator	Reference in the Government Notice	Regulation	Comments/inputs	Response
49.	**FIA**	**6.1(f)**	**Mechanisms to assist the insurer in meeting procurement etc. targets**	We understand the spirit of this requirement but use of the word "assist" suggests that the mechanism and measures under a binder could be more onerous than for the insurer's own operations. We suggest the word be changed to "support" or "should not hinder".	It is not understood why "assist" would be more onerous than "support".
50.	**Santam**	**7(f)**	**Part 6 Reg 6.3(1)(q)**	Clarification is sought as to whether this requirement only applies to the claims binder function as contemplated under section 48A(a)(e) of the STIA.	No. The requirement applies to any binder agreement.
PART 8 TITLE AND COMMENCEMENT					
51.	**SAIA**	**8.**	**Part 8**	**General comment:** Following the proposed change in the regulatory framework relating to premium collection in respect of removing the requirement for security in the form of a guarantee policy, members of the Intermediaries Guarantee Facility Limited Board and the SAIA Board will be engaging with the Regulators on identified industry risks.	Noted.
52.	**Insure Group**	**8.**	**Part 8**	The transitional provisions allow for too short a period. In the industry such agreements are often for lengthy periods. The agreements are also complex and will require time to negotiate and change. Transitional periods of between one and five years may be required.	Please note that specific comment was requested on transitional provisions. After considering the comments received, appropriate transitional provisions have been provided for in respect of the proposed premium collection framework. New requirements are subject to a 12 month transitional period and existing requirements will take effect immediately.

No.	Commentator	Reference in the Government Notice	Regulation	Comments/inputs	Response
53.	**Masthead**	**8.**	**8.2**	We suggest that a period of 3 months from the effective date of the amendments as set out in 8.2 should be afforded to insurers and intermediaries to whom the collection of premiums has been outsourced. This will allow adequate time for each party to implement any required changes and to incorporate these into revised agreements.	See response above.
54.	**Monarch**	**8.**	**8.2**	As recorded in our submission. FSPs who are credit providers would have to make significant enhancements to their existing systems which would take time and effort. Furthermore such system changes may not be practically possible to do. If the concerns raised in our submission are not addressed, and depending on the updated amendments, we respectfully request that the proposed effective date of Section 4.2 in the draft amendments to the Regulations be extended by at least eighteen months. Please refer to our submission attached for further details.	Agree that a transitional period should be provided for. Disagree with the proposal of an 18 month transitional period. Considering the changes to Regulation 4.2 and 4.3, we are of the opinion that a transitional period of 12 months is appropriate. The Regulations have been amended to this effect.
55.	**FIA**	**8.**	**8.2** **8.3**	It is noted that the effective date is the 2nd July 2018. We request consideration for transitional dates with particular reference to those intermediaries collecting premiums and where new agreements and possibly guarantees will have to be negotiated.	See response above.
56.	**FIA**	**8.**	**8.3** **8.4**	It appears that these wordings do not relate to the proposed changes as contained in Government Gazette 41523.	This retains the transitional provisions that were provided for in GG 41334 that was published on15 December 2017.

GENERAL COMMENTS

No.	Commentator	Issue	Comments/inputs	Response
57.	**Fulcrum**	**Wholesale deletion of IGF**	Fulcrum notes the deletion, in its entirety, of the provisions relating to the Intermediary Guarantee Fund, (IGF). Fulcrum Collections has always understood that the limited capacity of the IGF guarantee (at its current maximum) posed – and continues to pose – risk to insurers. The guarantee was, and is, not sufficient to cover the total collections executed in a month by a premium collection agency such as Fulcrum Collections. The inadequacy of the IGF was one of the reasons that Fulcrum Collections developed its business solution of collecting directly into certain insurers' bank accounts. This business solution, when fully rolled out, will mitigate the considerable credit risk faced by some insurers whose premium is currently not being collected directly into their own bank accounts. Although the support for our business solution has been exceptional, the above concerns (around contract negotiation when the legal nature of premium collection is uncertain) are particularly pertinent. The take-up has accordingly been delayed by protracted contractual negotiations with each insurer, leading to a longer roll-out timeframe. If the regulatory framework were more clear and certain, implementation could be achieved sooner, thus reducing, and in some cases eliminating, risk altogether. By way of example, each implementation of the direct collection model involves a project with each insurer, requiring the full co-operation of each insurer's brokers. Certain necessary changes to the debit order file require development on the part of the broker's policy administration system.	The business solution of collecting into insurers' bank account is welcomed. We note your comment regarding the regulatory framework needing to be more clear and certain. Proposals on how this could be achieved would have been appreciated. Please note that the retention of the IGF framework is not an option for reasons highlighted above.

			Typically, the insurer must communicate the new approach to its brokers. The direct collection solution is then piloted with a smaller set of brokers to ensure that the collection runs smoothly and that the new procedure is well understood by the broker's staff. Apart from broker-related changes, changes are also required on the part of the insurer's finance department. Bank accounts, FICA verifications and authority levels must be put in place with the insurer's bank and with Fulcrum's bank. In parallel with the external changes affecting brokers, the insurer also has certain reporting and management information (MI) requirements that must be met. Considerable time and effort is spent on ensuring that these requirements are satisfied. This is followed by a full rollout to all brokers. As can readily be understood by the above extremely high-level overview of a change from the current business model to a direct collection into the insurer's account, the project involves a number of critical steps. At the moment, the step that takes, by far, the longest is the contractual negotiation with insurers. This is due, exclusively, to the uncertainties surrounding the precise nature of premium collection and the future of premium collection. If the necessary regulatory certainty could be provided, this entire process could be considerably shortened. We have observed that it takes anywhere from 6-18 months (depending on the insurer's business model, number of brokers and complexity of its internal processes) to ramp up the collection directly into insurers' bank accounts in such a way that neither intermediary nor insurer's operations are disrupted and, more importantly, in a way that does not cause inconvenience or interruption to consumers.	

			For the reasons set out above, and in the interest of an orderly, managed transition from the current status quo to the ideal future state, we are, respectfully, of the view that the IGF should be gradually phased out over an appropriate time-frame to allow insurers, intermediaries, collection agencies (and regulators, who will be working on Phase 2 of the RDR, including Proposal F) sufficient time to align agreements with the regulations and in a sustainable way that makes commercial sense for all affected parties.	
58.	**Santam**	**Interest on the premium**	We note the comments from the Authority (Regulator) regarding interest earned on premium collection and urge the Authority to consider the broader impact on the current practices in respect of the retention of the interest by the independent intermediaries. This becomes particular relevant when the “premium collection and handling” activity becomes part of an outsourced activity where no limitation of remuneration exist save for the fee to be commensurate with the services that are rendered.	Noted. Please note that it has always been our view that because the premiums/money the collecting intermediary receives is that of the insurer, there is no justification for the collecting intermediary to retain interest earned on the money. Please note that we have never indicated that there will be no limitation on remuneration for premium collection when it is reclassified as outsourcing.
59.	**Santam**	**Retaining premium currently as “services as intermediary”**	We are concerned about the effort and timing required to amend the intermediary services agreements to align with the requirements of the revised PPR and then later to re-contract once premium collection is removed as “services as intermediary” once the segmentation of intermediary services is finalised. We would impress upon the Authority (Regulator) to consider the impact of the amendments and to take cognizance of the practical concerns.	Noted. However, it is not clear what you are suggesting.
60.	**Insure Group**	**Authorisations and Contractual**	4.1(1) Impact (Specific – Insure Group Managers “IGM” and 90 ST & LT Insurers)	Noted.

		Complexity and Implications	Authorisation under proposed 4.1(1) by Insurers requires current STIA 1998 Reg 4 authorisation agreements to be replaced/concluded with Insurers. For IGM the quantitate numbers are: - 50 ST Insurers who will be licensed for Non-Life products under the IA. - 40 LT Insurers who will be licensed for Life insurance products. - Certain of these ST Insurers of these are internationally based (Lloyds syndicates). - The magnitude, scope, legal costs and executive resource allocation for the costs of this undertaking will be extraordinary. - In utmost good faith IGM undertook a similar replacement undertaking in 5 years ago with these ST insurers when Directive 156a published by the Registrar in 2011. Impact : (General : 500 (?) currently authorised intermediaries; 100 plus Insurers) In our analysis a typical intermediary currently authorised intermediary deals with 20 insurers (say 40% of ST Insurers in market) plus 30 UMAs (say 20% of the UMA market whose Insurer Principal needs to give authorisation). In general this proposed regulation will significantly impact and likely prejudice the majority of the intermediaries who are currently authorised. The biggest consumer risk is the possibility of their current authorisation not being replaced. This is a tangible risk for smaller authorised intermediaries. The risk is then transferred to the consumer as their payment methods need to be moved. Consideration of the best options by the parties in the interests of insureds takes time.	Please note that reasonable transitional periods have been provided for (see responses above). Only those intermediaries who are unable to meet the (necessary) governance requirements, even after a fair transition period, should lose their authorisation – this is appropriate to address relevant risks. We do not share the concern regarding insurers directly approaching clients – it is actually preferable from our point of view for customers to pay premiums directly to the insurer – it is not understood how this impedes quality of advice or customer choice, as implied.

			Meanwhile in the market and parallel to the above those intermediaries desirous or assuming they will to be authorised will be potentially "press ganged" into signing template type agreements for each with respective Insurers in an administrative frenzy which will totally undermine the oversight objective. The contemplated market undertaking is being described by legal practitioners as "impossible" within any foreseeable or reasonable time frame. In a further observation Directive 156a was published in 2011 all ST Insurers without exception wanted to enter into new contractual arrangements to ensure demonstrable evidence of compliance for FSB Insurer site visits. The Directives communicated threats of penalties with "name and shame" enforcement caused Intermediaries to sign agreements in duress and without proper negotiation. It should also be noted that the exercise also effectively has to be undertaken two or three times for each Insurer because once agreement versions start being concluded the requests for enhancements against established bench marks multiply. Proposal: To take account of such contractual volume and ramifications a transition period of 60 months for full authorisation will be necessary. Alternatively it should be 90 days for each Insurer for each intermediary "in line" so we can sequence authorisations thus giving each Insurer proper attention for their prudential risk. Information request: General Impact implications /considerations:	

			Any ST intermediary losing long standing authorisation granted previously under S45 and unable to collect independently will suffer an impairment to the capital value of their business. This will then become an embedded intangible loss. They will also likely become an early acquisition target albeit at a much lower value. This is a destruction of capital. Such intermediaries will also have to try explain to explain to their Stakeholders why they are no longer universally authorised by insurers to handle premium. This will cause them reputational damage within the insureds community and therefore this is an unjustified "trust" tax imposed on the intermediary community. We forecast that this will also have a regulatory cascading effect. This is because if they do not achieve authorisation from one insurer it implies there is something "irregular" in their conduct. This is known as the herding effect or contagious hysteria (such phenomena in an economic context being responsible for example for "runs" on banks and collapse of share prices). The actual 'fault" could very well be an incapacity (resources; skills) on the part of particular Insurers to provide oversight Insurer however for their part Insurers will not acknowledge this lest it causes a run on them (as happens in a S12….) To mitigate this portfolios will naturally be consolidated to a lesser number of Insurers. This is anti-competitive and will eliminate product choice from the industry for consumers. We can also see that Insurers will poach the oversight personnel in the scramble. It is also a common practice of Insurers to directly approach brokers' Clients which is why independent collection is essential.	

			In truth a broker requires an unimpeded premium collection framework so that they can give "unintimidated" advice and product choice to consumers and insureds. 4.1(4): Statement says … A policy decision It would appear to us is that in making such a policy decision the incumbent decision makers appear to have not identified and defined the true problems for which regulatory facilitation is required in the industry. The reason for our assertion is that as the largest independent collection agency and intermediary the first reaction from Insurers to this policy decision has been for Insurers (without exception) to ask us for a replacement equivalent policy (as a minimum). It therefore is completely counterintuitive to state that the policy decision was made because "..it is the responsibility of Insurers to ensure…and to mitigate". Policy formation and decision making depend on problem definition. We believe it would benefit the industry if full details of this policy decision can be examined on the basis of rationality. This would give transparency and perhaps go some way to either substantiate or address the conspiracy theories that currently abound.	
61.	**Insure Group**	**Problems in LT Insurance premium**	4.2(3)	The number of comments by Insure Group alleging a lack of consultation, while extremely concerning, appear to

		collections and recommendation for continuation of guarantees and their application to all products	We propose that premiums should be transacted through "DESIGNATED" premium bank accounts (NOT SEPARATE BANK ACCOUNTS). WE SUBMIT: DESIGNATED premium bank accounts is the manner in which the ST term premium handling and management is conducted by competent authorised intermediaries, including collection agencies. This is also as per the FAIS code of conduct. The proposed requirement for separate bank accounts is totally unworkable in ST (Non Life) insurance in South Africa. Furthermore the "Statement" categorically confirms that separate accounts in LT insurance has proved inoperable in the Life insurance industry and not supported by Life Insurers on a wholesale basis. Per the Statement: "*In the past long-term insurers regularly evaded the application of section 47(3)"* This statement is very enlightening with respect to the appropriateness of any proposed changes. We believe this allegation of evasion is defamatory to the Long term industry. Again the situation is a case of a regrettable lack of industry consultation which would result in actually determining the underlying causes, defining the problems and presenting workable solutions.	be misplaced and are not understood. Although the RDR did not contain specific details on the proposed conduct standards, it already laid the ground work for these requirements back in late 2014. The very purpose of publishing draft regulatory amendments is to ensure constructive consultation with a wide spectrum of stakeholders. While your comments will be considered during the process of finalising the amendments to the Regulations, we cannot accept your general assertion that the proposals are unworkable in their entirety without substantive and compelling evidence to this effect. Specific details are required highlighting which proposals are impractical accompanied by reasonable and concrete suggestions on how to amend the proposals while still achieving the intended outcome. Please also refer to our responses to your previous comments. Please note that it is not clear what the difference would be between a "designated bank account" and a "separate bank account". We do, however, acknowledge some of the concerns you raise and we have accommodated these concerns through various changes to the proposed Regulations as well as appropriate transitional provisions.

			The question should be – Why Insurers engaged in the conduct? The comments of Long-term insurers should be published for assessment and consultation purposes. For our part we are pleased to advise Treasury that that reason any avoidance (not evasion) occurred is because as stated, the regulation which the Regulator (FSB) favored was actually in operable. It is therefore astonishing to us that the FSB did not constructively solve the matter through Directive (similar to Directive 156 in Short-term) but rather entrenched its stance on a philosophical basis while applying Supervision and sending notices in select cases. The Statement content supports IGM's view that this has been inequitable and to the detriment of IGM and our Clients. We submit that separate bank accounts would be tantamount to implementing failed regulations which were not fit for purpose under LT. Introducing such into ST would have a *catastrophic* effect on the industry and thus the economy in which it plays a vital role. The reason this is pertinent is that only a fraction of LT (Life) products are collected by intermediaries. The product types are completely different (that is why under the Insurance Act there is a defined distinction between Life and Non-life. The "tried and tested" arrangements applicable to ST where the majority of collections occur should be applied to LT. (With applicable guarantees for standardization across products.	

			Specifics with regards to operations of bank accounts in premium collections and handling: Examples: With regards to two intermediary arrangements. If an Insurer can authorise 2 intermediaries with respect to commercial business but only Insurers can be paid from a premium bank account how can payment actually occur. As the proposal does not bear any resemblance to how the banking system in South Africa works: Transmission accounts deal with debit orders (not interest). Naedo – proposals will put Naedo collections in jeopardy as these premiums need to move between bank accounts. This is because of the competency, facilities and system differentials of different banking institutions. Credit Cards – constraints. There is a need to move monies between accounts for Borderaux purposes that is for example Deposits into 1 designated account separate from Debit order collections. This is so deposits and EFT's can be auto referenced by systems and/or manually allocated. Thereafter payments are consolidated for bordereaux payments for Insurers. Forex - There is a need to move monies into forex accounts for offshore settlements (Lloyds Brokers) The Lloyds market DOES NOT pay Insurers. The legal procedure is to pay a Lloyds Broker in the UK who does the premium distributions in terms of a slip. Collection agencies have specialist "Sub-accounting" for specific purposes.	

			Bank accounts are in fact automatically or manually swept in terms of banking systems. Collection agency premium management cash-flow systems predict the levels of returns and premium payment distributions based on instructions received daily. VAPS – Value Added Products, not catered for despite likelihood that all ST premiums have this component. In summary the proposals are unworkable and may have been based on the basis of 1 intermediary and 1 insurer arrangements.	
62.	**Insure Group**	**Recommendation that RDR references to "Rogues" (source RDR) be struck**	RDR "Rogues": With respect the assertion that there are Rogues at large in the industry remains to date a wholly unsubstantiated claim within the RDR commentary. To give this context: I am sure after the international reputational quagmire for the Republic that arose on nationally reported speculation and investigations that a Rogue unit could have been established at SARS based on reporting which KPMG have internationally been condemned and apologized I believe we would have to give Rogue assertions from the 2014 era (when the RDR was published) under extreme and subjective scrutiny. The reputational damage to institutions and industries can be irreparable and not all persons are well placed to counter spurious contentions. Logic suggests that if there are any Rogues doing harm on any quantifiable scale then Proposals E & F would have been dealt with in phase 1 of RDR implementation in the national interest of having identifiable criminals brought to book and incarcerated.	We assume that you are referring to the following statement in the FSB's 2014 Retail Distribution Review (RDR) discussion document (see page 31 of the document): *"There have however been cases where an insurance intermediary has misappropriated the premium amounts – either because an insurer has cancelled cover for the book of business or in the event of a rogue individual."* The FSCA regards this as an accurate statement of fact, based on supervisory experience, and we do not understand why it should regarded as offensive or pose a risk of reputational damage. The general comments regarding changes in RDR proposals since the initial 2014 discussion document are not directly relevant to these Regulations. However, in the interests of accuracy, we point out the following:

			Given that there have been no such prosecutions there is no option but to conclude that these were perhaps embellishments to add dramatic effect to sell these proposals. Given the subsequent industry and regulator negotiated "U-turns" (understood to have been due to constitutional "difficulties") that have fortunately occurred and the result of which was that the implemented RDR changes so far differ fundamentally from the original applicable proposals. Therefore we propose that the reference to "Rogues" be removed from RDR proposals in the public interest as it leads to sensationalism and the distinct impression that Regulators do not a grasp of the relative exceptional nature of these few instances of misconduct.	- There have been no "U-turns" regarding our RDR proposals and objectives. - Any changes we have proposed to the manner in which particular proposals will be implemented, are aimed at ensuring that the proposal will meet its initial objective as effectively and efficiently as possible. An example is changing our adviser categorisation proposal from a three-tier to a two-tier categorisation model. - Such changes have in the main been informed by constructive and well motivated comments and suggestions from stakeholders, elicited through extensive consultation processes. None of these changes have been based on constitutional concerns.
63.	**Insure Group**	**"Abuses"**	The statement refers to abuses detected under Supervision. However this does not correspond into minimal evidence of this by way of Enforcement notices. This means that FSB Supervision has actually failed to deliver Enforcement and this implies that levies have been misallocated perhaps in line with a specific agenda to the detriment of the compliant FSP's. Furthermore the Enforcement fines have actually been minimal as the parties have fully cooperated and there have been no loses to consumers (this is stark comparisons the Insurer matters or where there was no IGF holder). There is no mention of group security arrangements which is an unfortunate omission.	Please note that the Regulator cannot enforce something that is not legislated, hence the reason for the proposed amendments. The first step in addressing an abuse is to provide for a legislative requirement countering the abuse, then enforcement will follow.

64.	**Insure Group**	**A Guarantee Security System**	A Guarantee Security System: A guarantee security system is the most effective way of enhancing the industry and protecting the insured. The industry requires an indirect security system and not a direct regulatory system. An indirect system will give independence to Collection Agents, will enhance entrepreneurship and transformation. If an industry guarantee fund cannot be established then a state facility, such as SASRIA should be established. State to Facilitate guarantees: A parliamentary workgroup should be established. Objective 1: Determine if Guarantees (formerly IGF) could be underwritten by a “SASRIA’ or similar established entity. The reason for this recommendation is that when the insurance industry was not in a position to insure terrorism cover it followed that SASRIA was formed to great effect. Therefore since Insurers are unable (SAM/scarcity of capital) or unwilling (strategic objectives; to underwrite risk) the government should seize the opportunity to meet the need of the market. They could issue at IGF limits with the market bringing in “Supplementary guarantees” Objective 2 State to start an Insurer Fidelity Fund. This is all the more pertinent since the losses that have occurred are not the result of authorised intermediaries defaulting but rather Insurers failing or persons taking money when indeed there is no insurer. It also speaks to and addresses the Constitutional right to dignity for persons who are affected in this way. (We were advised	We reiterate, the IGF was there for prudential reasons. Prudential supervision of insurers has moved to the Prudential Authority and will be regulated in terms of the Insurance Act. Proposals regarding guarantee requirements must therefore be presented to the Prudential Authority.

			by the legal advisors to the curator of Saxum Ltd that UBER drivers actually committed suicide believing they had lost their livelihood. The IGF Ltd could not respond) This raises to the forefront that the market requirement following the Saxum and W4 matter where Insurers have had to contribute. Therefore the most pressing requirement is for an Insurer Fidelity fund to give consumers comfort and restitution for when Insurers fail or when monies have been handled by unauthorised persons. To be specific the problem to solved here within the industry is that the Insurers have not given an agency or have terminated an agency but the FSP put the names of these Insurers (or combinations thereof) on the policy schedule. The view taken by the Registrar was that the consumer (who is actually not insured or "an insured") believes that the Insurer(s) reflecting on the schedule has to meet "the claim". This is actually like "Russian roulette" for Insurers can effect multiple Insurers at once: Example: W4 matter affected separate Lloyds Insurers, Renasa, Constantia and could potentially have affected Santam and Zurich (now Bryte). We appreciate that Insurers may not want to confront this but it is a much bigger problem than authorised premium handling.	
65.	**Insure Group**	**Part 4 in particular Regulation 4.2**	The promulgation of Regulations is an administrative function and governed by the precepts of Administrative Law. Administrative Law regulates the legal relations of public authorities whether with private individuals and organisations or with other public authorities. Of the two aspects of Administrative Law – general	Noted. Please be assured that we will follow due procedure within the confines of the Constitution and the Promotion of Administrative Justice Act. We do not understand your comment stating "If the draft Regulations

			administrative law and particular administrative law – your concerns arising from the draft Regulations fall within the category of General Administrative Law. A public authority must use its powers reasonably and exercise them in a fair manner. The so-called "rules of natural justice" dictate that persons affected by administrative action should be afforded a fair and unbiased hearing before the decision to act is taken. It is based on this requirement that the FSB has circulated the draft Regulations and has called for comment thereon. The draft Regulations constitute notice of intended administrative action. The notice must be adequate, giving the industry a proper opportunity to be heard. Administrative action can harm the interests of individuals and organisations in many ways. If the draft Regulations conflating commission with interest come into effect, the economic interests of the insurance industry or, at least, a substantial section thereof – insurers and independent intermediaries – are directly and indirectly affected. The common law rules relating to Administrative Law are also enshrined in the Constitution of the Republic of South Africa. Section 33 of the Constitution deals with Administrative Justice and just administrative action and Section 34 of the Constitution – "Access to the Courts" - applies to administrative tribunals as well as Courts of Law. Regulations such as those now proposed by Treasury which can be shown to cause harm to the interests of individuals and organisations and which do not constitute just administrative action can and should be struck down by the courts.	conflating commission with interest come into effect…" as the Regulations do not deal with the aspect of interest. Your assertion is therefore completely unfounded.

66.	**Insure Group**	**Economic Impact Studies**	We note in the "Important Instructions" that section C is for "…including comments relating We respectfully point out that the "the Statement" make no reference whatsoever to the Economic Impact Studies (EIS) that are required to be tabled in Parliament in relation to any change. As these are being done under ST & LT Acts please advise where the EIS has been published. Furthermore if any proposed amendments are expected to coincide with the Insurance Act the EIS of the Insurance Act would need to be re-undertaken based on new material matters that have come to light.	Please note that we specifically included Section C to elicit comment on the anticipated impact of the amendments, as we believed that this would place us in a better position to make informed decisions when finalising the Regulations (and could inform any statement we provide to Parliament on the intended impact). It is unfortunate that this approach has been greeted with hostility. Please note that all statutory consultation requirements in relation to these proposed amendments have been complied with.
67.	**Insure Group**	**Sector – Funeral**	Amendments will have a devastating effect on the funeral industry.	Noted. It is unfortunate that you do not specify why this is your view.
68.	**Insure Group**	**Sector – Motor**	Amendments will have a devastating effect on the motor industry (warranty business).	Noted. It is unfortunate that you do not specify why this is your view.
69.	**Insure Group**	**Foreign Investment – Existing**	Amendments devastating effect on foreign capital currently employed in foreign intermediaries	Noted. It is unfortunate that you do not specify why this is your view.
70.	**Insure Group**	**Foreign Investment – Future**	Amendments will have a devastating effect on the prospects of any future foreign capital being sourced as per the President initiative because under these amendments in current format South Africa is not open for business.	Noted. Your reasoning stated here is, however, not understood.
71.	**Insure Group**	**Value Add Product Suppliers**	Amendments will have a devastating effect on VAP's	Noted. It is unfortunate that you do not specify why this is your view.
72.	**Insure Group**	**SAUMA (Industry Stakeholder)**	Amendments will have various devastating effect on UMAs (SAUMA members) as Insurers will have to do oversight on their UMAs as well as their UMA supporting brokers. It is unlikely that Insurers will do	Are you suggesting that insurers should have no oversight over the persons they authorise to collect premiums or provide

			this so UMAs will be culled and their businesses divisionalised by Insurers. The capital destruction for owners of UMAs will therefore also lead to unfair "expropriation" of their business.	other outsourced services on their behalf? Further, UMAs are appointed to perform binder functions. As an additional activity they might also collect premiums. If they were not to collect premiums anymore (although we dispute even this contention), they would still be performing their core function, being binder functions. How this would lead to "capital destruction" and "expropriation" of their business is inexplicable. Binder holders such as UMA's are already subject to oversight by the mandating insurer in line with good governance and good business practice.
73.	**Insure Group**	**Policy Administration Platform Systems (Industry Stakeholder)**	These Stakeholders do not have industry representation (not required to be FSPs). However, these amendments would have various devastating effects on their sustainability and business models. It will likely lead to opportunistic conduct on the part of competitors in the IT and data technology sector. No mention has been made of these stakeholders in the Statement and therefore the seismic implications of this cannot be assessed at present.	Noted. It is unfortunate that you do not specify why this is your view. We would require more information regarding exactly what functions a "policy administration platform system" that you refer to performs before we can corroborate or oppose your view that they are not required to be FSPs.[As explained, one of the purposes of eliciting comments was to receive information on the intended impact on industry.
74.	**Insure Group**	**Industry Credentials – All Credit Intermediaries &**	We reference the IGF Ltd/SAIA monthly distributed listing of IGF and Bank guarantees. How are the policy holders and brokers to determine which intermediaries are authorised by which Insurer in relation to which products at what levels. How will	Are you suggesting that these monthly distribution lists are currently distributed to policyholders? This is not the case as far as we are aware. Therefore, we do not see any increase in

		Authorised Persons	the market and consumers know in a public domain when such authorisation commences, terminates, is extended or renewed. (Example: specific reference to the Eurointeractive matter in 2009 where Lloyds Coverholder arrangements were actually forged. On what possible basis can insureds be secure in making their payments? Until the designation of Qualifying Intermediary (per RDR) has been determined and transitioned and stress tested we see the lack of discernable formalities as being chaotic and subject to crime and fraud. This will have a massive bearing on the costing of PI Fidelity, Cyber and D&O cover for all parties.	risk in this regard. It is also not clear why brokers should be aware of which intermediaries have been authorised collect premiums. It is the insurer that authorises and appoints the intermediary and broker.
75.	**FIA**	**Part 4 – Premium Collection/IGF Guarantee**	We believe that the FSCA has been in discussion with other interested parties but no engagement has been made with the FIA. The approach for premium collections by intermediaries was designed and negotiated by a predecessor of the FIA (SAIBA) with SAIA and the then Regulator at the time of the replacement of the former Sect 20 (bis) by Sect. 45. This arrangement included a market sponsored Intermediaries agreement and the IGF. The rationale was set out in a document prepared by the FIA in 2011 at the request of Deputy Registrar Insurance. This document set out the initial strategy, deviations from that strategy and some concerns around usage that needed to be addressed. The IGF (as the Insurer of the Guarantee) has served its intended purpose well as is demonstrated by its favourable claims performance (approximately a 3% loss ratio) in a market which has also shown improved claims ratio's and solvency ratio's as compared to the time of introduction of the IGF.	It is unclear what discussions you are referring to. The only discussions that took place in this regard were with the IGF (registered insurer) and its viability in the future considering the SAM regime. It was as a result of these discussions, and the fact that IGF was there for prudential reasons and that prudential supervision of insurers has moved to the Prudential Authority and will be regulated in terms of the Insurance Act, that the policy decision was taken to remove the IGF requirement. Please note that the retention of the IGF framework is not an option.

			Despite its perceived shortfalls both then and now, the FIA is of the opinion that insufficient engagement has been had and that the IGF and certain other associated market practices could well find place in the current environment to provide the required safeguards as well as facilitating a complex business process that is essentially well embedded across the industry, facilitating and regularizing industry practice that should not be regarded as a competitive differentiator between insurers. In fact, the scope for differing approaches by various insurers will create unnecessary and undesirable arbitrage and uncertainty that is not conducive to treating customers fairly. The FIA requests further formal engagement on this matter at which point the practical application of the premium collection function will be elaborated on demonstrating the advantages to the policy holder and Insurer in addition to highlighting the pitfalls in the event of the demise of the IGF, in particular to the smaller intermediary. We have commented in Part 8 above of the tight timelines for implementation and request that consideration is given to urgent consultation on this subject. In the meantime the status quo should prevail. Our further comments will be elaborated on in any such further engagement and should not be taken to simply apply in the context of the current proposed change.	
76.	**FIA**	**Part 4 - IGF**	The IGF guarantees have been renewed for a twelve month period effective 1st March 2018.	The IGF guarantees are separate contractual arrangements. The fact that there is no requirement in the

			Clarity is required on the future of these guarantees post proposed implementation date under the new Act and Regulations. The conditions of the Guarantee should be noted: 60 day bi-lateral cancellation clauses 3-year run-off period Claims to be submitted after 12 months have elapsed since date of notice of claim.	Regulations requiring that a guarantee must be in place, does not affect these arrangements. IGF the registered insurer will continue to exist until all its business has run off.
77.	**Prestgroup**		We write to you in comment to the Government Notice no 357 issued on 23 March 2018, more specifically Part 4 Section 45- Premium Collection by Intermediaries. We, as an intermediary within the marine cargo insurance sphere continue to face tremendous problems with complying with Sec 13 (1) (c) of the Financial Advisory and Intermediary Act as well as the new proposed Section 45 of the Short Term Insurance act both prohibiting the delegation of premium collection by an independent intermediary. On order for us to explain our problem, we need to provide some background as to who we are as well as the industry in which we operate hoping that this will provide you with understanding of the problems that we face. ABOUT PRESTMARINE A DIVISION OF PRESTGROUP (PTY) LTD (FSP NR 165) Prestmarine is a specialist marine insurance broker employing in excess of 35 staff members. We offer our clients extensive market knowledge along with the backing of a worldwide alliance of service providers. This commitment to excellence, coupled with a proven	Your concerns are noted and revisions to the draft Regulations have been proposed that should alleviate some of your concerns. Where practical difficulties in complying with the Regulations persist, this can be dealt with through an exemption mechanism which has been provided for in the draft Regulations.

			track record over the past three decades, has made us one of the preferred marine insurance service providers in South Africa. Backed by South Africa's leading insurance companies, as well as Lloyds of London, we have access to world class products. Our insurance solutions cover all modes of transport – sea, air, road and rail - both locally and internationally. We cater for importers, exporters, distributors, transporters, logistic companies and the like. As we are a specialist marine broker, our clients are mostly freight forwarders. Cargo insurance is our bread and butter. We take compliance of the law very seriously and were one of the front runners to register as a Financial Services Provider when the FAIS legislation was introduced. We have consequently throughout the years following the implementation of the legislation striving to be fully compliant with the law. THE ROLE OF A FREIGHT FORWARDER WITHIN THE MARINE INSURANCE SPHERE Freight forwarders manage and organise the transportation of a customer's goods. The freight forwarder is contracted as agent of an importer/exporter of goods to arrange the international transport of goods whether by sea, air, road or rail. The freight forwarder will arrange the customs clearing of the goods, warehousing, bonded warehousing, "pick n packing" as well as the local distribution. Cargo insurance (amongst other things) is offered as a value added service of the freight	

			forwarder to protect the end user (client) and themselves in the process. The freight forwarder provides the necessary expertise of international shipping, customs and excise laws etc. to the local import and export market. HOW FREIGHT FORWARDERS DEAL WITH CARGO INSURANCE As explained above, freight forwarders manage and organise the transport of the customer's goods. Insurance is provided as an optional element of the service. The freight forwarder typically does this through the use of a marine open policy. The forwarder arranges this policy directly most often through an insurance broker- typically a marine insurance broker as this is a specialised field. The policy is issued in the name of the freight forwarder and/or the clients for whom they have the right and mandate to insure. Should the customer decide to take up the insurance option, the rights of the policy are passed to the customer so that in the event of loss, or damage to, the customer's goods, the customer can make a claim directly against the insurance policy held with the insurer. The freight forwarder (as a Juristic Representative on Prestgroup's license) invoice to the client. PREMIUM COLLECTION In 2006 Prestmarine approached the FSB for clarity on this issue. Discussions was held with various people including Riaan Grobbelaar (Prestgroup's Managing Director), Warren Neale and Gerry Anderson from the FSB and various individuals within the freight industry (represented by the industry body SAAFF – the South	

			African Freight Forwarding Association). Our process was discussed and was accepted by the FSB. In terms of our mandated agreement, a freight forwarder is authorised to collect premium on behalf of Prestgroup. In practice (which is the same worldwide) the premium – although separately disclosed-forms part of the freight forwarders invoice to the client. It is now this practice that has again come into the spotlight and is seen as illegal practice with the proposed Section 45 prohibiting the delegation of premium collection by an independent intermediary. This is virtually impossible given the unique nature of the freight industry as will be explained below. A PRACTICAL VIEW ON PREMIUM COLLECTION FROM A FREIGHT FORWARDER'S PERSPECTIVE: The freight forwarder operates like a 'one stop shop' for the movement of freight. The freight forwarder attends to the flow of the goods from the moment the goods are collected to delivery including all service, customs, SARS, insurance etc. The freight operator issues one invoice to the client which includes all the necessary services to deliver the goods at the destination. The freight forwarder's invoice to the customer, for example an import shipment, will have the following outlay: • EX Works charges, • International freight costs, • Cargo handling fee, • Local transport costs, • Customs duty,	

			• Customs vat, • Agency fee, (finance fee), • Documentation fee, and • Insurance premium. Therefore: a) A freight forwarder client (importer/exporter) wants a single invoice from the freight forwarder which incorporates all the necessary services and expensed required for a shipment. The client wishes to make one payment for every shipment to one account. This should be easy especially considering the volumes of shipments. One importer can have hundreds of shipments per month. Having a separate invoice for insurance, payable into a separate bank account only complicates matters and will only have the result that the client will become frustrated with the extra administrative work especially as cargo insurance premium is less than 1% of the value of the freight forwarders invoice. The clients will simply elect not to insure their goods or perhaps will attempt to change the trading term as explained below or may move the business to another freight forwarder whoillegally operates outside of the regulations; b) A freight forwarder uses specialised international software packages for support. When an invoice is raised by the freight forwarder, the system has the ability to automatically calculate for example the insured value for the shipment. A separate line item is created for cargo insurance premium. All insurance business for freight forwarders internationally is done on this basis. Often the larger	

			international freight forwarding companies use their in-house global system worldwide. It will be very problematic for these companies to run on a different system. c) In terms of an open marine policy, premium is only calculated when the goods have already landed (as explained above). Most of the time the freight forwarder will pay the insurance premium to the broker/insurer prior to receiving it from the client (importer/exporter). The client only pays the invoice when the risk has already run off. d) This argument was accepted in the United Kingdom (as explained below in more detail) resulting in that the freight forwarders were exempted from similar legislation because of the negative impact the legislation had on the industry and as a result the UK economy. THE MOVEMENT OF FREIGHT IS INTERNATIONALLY MOBILE Internationally there is always a tug of war import/export agent as to who arranges freight and auxiliary services as each is a profit centre. Because the movement of cargo is such highly internationally mobile, the danger is that customers will simply bypass the South African insurance industry by either not insuring the goods, directly insuring the goods or by changing the trading term (the INCO-term) of the imported/exported goods. We provide you with a short explanation to illustrate our point. A supplier (seller) in China supplies goods to the importer (buyer) in South Africa. The terms of the trade is agreed as Ex Works (EXW). EXW is an international trade term that describes an agreement in which the seller (exporter) is required to make	

			goods ready for pickup at his or her own place of business. All other transportation costs and risks are assumed by the buyer (importer). For insurance purposes- the buyer (importer) in South Africa carries the risk when goods are collected at the seller's (exporter's) premises and has the responsibility to insure the goods. The services of a South African freight forwarder are used to bring the goods into the country and will as a value added service insure the goods on behalf of the buyer if so instructed. South African marine insurance brokers and insurers are used in this scenario to manage the risk for which premium is paid. Therefor the South African economy benefits as there is a service rendered in our country and money inflow towards our economy. The same import of the goods could have been attended to very differently on a CIF trade term basis. Cost, insurance and freight (CIF) is a trade term requiring the seller (exporter) to arrange for the carriage of goods by sea to a port of destination, and provide the buyer with the documents necessary to obtain the goods from the carrier. The seller (exporter) must pay the costs and freight which include insurance to bring the goods to the port of destination. However, risk is transferred to the buyer once the goods are loaded on the ship. Therefor the buyer (importer), although on risk the moment the goods are loaded onto the ship, does not arrange for the goods to be insured. In this example, this is all done in China. Therefore the South African insurance	

			industry misses out on the premium and freight services for that shipment. It is consequently very easy if insurance becomes too complex for people within the South African freight industry to comply with, to manipulate the system and for matters simple to not be put through the South African economy. This will have the result that clients will either not insure the goods because they refrain from the added work load to arrange insurance, directly insure the goods (this is seldom done without the benefit of expert advice and better premium negotiations) or change the trading term to 'remove' the obligation for the importer/exporter to insure the goods from South Africa. This sector currently brings in R350 million worth of premium per year and employs thousands of people. This will most definitively affect the South African economy negatively. Both transactions have an impact on a South African consumer. The first example the transaction is regulated and the consumer has access to for example the FAIS Ombud but the second transaction is not regulated at all leaving the South African consumer with no recourse options. CURRENT SITUATION IN SOUTH AFRICA AND WORLDWIDE On this point we wish to refer you to United Kingdom Treasury's argument which was accepted by UK Parliament in 2007 exempting the freight forwarding industry from the Financial Services Act which is very similar to the South African legislation. The issues	

			raised by the Treasury are very similar to the issues we within the South African freight industry face. In the UK it was decided that the negative impact on the industry and consequently the UK economy vs the danger to the freight forwarders' customers in not being treated fairly are disproportionate and the situation was rectified to promote healthy trading circumstances. Following our research, there is to our knowledge no country that has legislation in place which has the same effect on the freight industry. More specifically, the European Union and the United States does not have any legislation to this effect. Australia and Canada has similar legislation to the FAIS act however freight forwarders was specifically exempted of the legislation- similarly to the UK. It is therefore fair to say that worldwide the unique nature of the cargo industry is accepted. CONCLUSION The Freight Industry in South Africa contributes significantly to the South African economy and African economy in general. In Prestmarine's business marine insurance is the bulk of our business and one can say is our bread and butter. Because of the international nature of the industry, the industry should be attended to on the same basis as is the norm in the world. Currently this is not the case. South African legislation is making it more and more difficult for the industry to be competitive with the other world players. The FAIS act and the proposed Section 45 of the Short Term Insurance Act regulations have had and continue to	

			have a significant adverse effect upon the international competitiveness of the South African freight forwarding industry which in turn affects the marine insurance industry and us as marine broker. We as a marine insurance broker are simply finding it not only impractical but impossible for us (and subsequently the freight forwarders as Juristic Representatives under our license) to comply with the current legislation regarding premium collection as well as the proposed Regulations. We respectfully request for Treasury to take cognisance of the unique industry problems we face within the marine cargo insurance business sphere in the proposed amendments to the Regulations in terms of Section 70 of the Short Terms Insurance Act Part 4 (Section 45).	