

STATEMENT OF INTENT

BY

THE LONG-TERM INSURANCE INDUSTRY

AND

THE MINISTER OF FINANCE

**AS TO THE MEASURES THAT WILL BE
IMPLEMENTED IN RESPECT OF RETIREMENT
ANNUITY FUND MEMBER POLICIES AND OTHER
SAVINGS PRODUCTS OFFERED BY THE LONG-TERM
INSURANCE INDUSTRY**

ON

12 DECEMBER 2005

1. RECORDAL

Whereas it is recognised that a culture of saving should be promoted in our country for the twin objectives of funding greater investment for higher growth, and to encourage households to make adequate provision for their retirement;

Whereas it is recognised that the contractual savings industry plays a critical role in promoting savings and provision for retirement;

Whereas the members of the long-term insurance industry, as represented by the Life Offices' Association of South Africa (LOA), recognise the problems highlighted by the Pension Funds Adjudicator (PFA) with respect to the lack of transparency of costs and charge structures, with the result that the expectations of consumers in respect of the net returns from retirement annuity fund member policies and other savings policies have not been met, particularly in the context of early premium cessation.

Whereas the members of the long-term insurance industry wish to meet these expectations by way of the sharing of the costs of early cessation of premiums, taking into account affordability, incentives to save, financial stability and the interests of existing policy holders.

Whereas it is recognised that in dealing with compensation for past policyholders, the interests of current policyholders must not be compromised, and it is in the interest of all that the financial soundness of members of the long-term insurance industry is not compromised.

Whereas the LOA has indicated that uncertainties inherent in the regulatory framework impede the ability of its members to provide retirement and other savings products to consumers in a clear and certain regulatory environment, pending the completion of the retirement fund reform process.

Whereas the members of the long-term insurance industry still need to obtain the approval of their respective boards as well as the trustees of the relevant funds and that this commitment is therefore a statement of intent, as the commitments are subject to these approvals being obtained.

Therefore the members of the long-term insurance industry and the Minister of Finance wish to make this Statement of Intent.

2. BUSINESS INCLUDED

- 2.1 It is agreed that the issue of early termination values is not confined exclusively to Retirement Annuity Fund member policies (RA's) and that it is a broader savings issue. For this reason, it is agreed that the minimum standards should apply to all business where savings is the primary objective (as opposed to the provision of risk cover).

- 2.2 It is therefore agreed that the minimum standards apply to the following classes of business:
- 2.2.1 RA's (whether with or without life cover);
 - 2.2.2 Endowments;
 - 2.2.3 Whole life business (where the products primarily have a savings purpose, according to objective criteria to be determined by the Minister of Finance after consultation with the members of the long-term insurance industry prior to the implementation date); and
 - 2.2.4 Reversionary bonus business.

3. BUSINESS EXCLUDED

- 3.1 It is agreed that the following business is excluded from the minimum standards:
- 3.1.1. Policies which are intended primarily to provide risk benefits; and
 - 3.1.2. Whole life business where the products primarily provide risk cover, according to objective criteria to be determined by the Minister of Finance after consultation with the members of the long-term insurance industry prior to the implementation date.

4. MINIMUM STANDARDS

- 4.1 For purposes of this paragraph "early premium cessation" means any reduction in premiums, cessation of premiums (paid-up), surrender of a policy, transfer of a policy, lapsing of a policy and reduction in retirement age.
- 4.2 In general, the minimum standard will be applied as a percentage of the policy Investment Account. For purposes of this paragraph, an Investment Account is taken to mean an account tracked at a policy level for the benefit of the policyholder. The operation of the Investment Account is typically explicitly described in the policy document, and is generally the accumulation of premiums with investment returns after deduction of charges (including charges in respect of risk cover, guarantees, and expense recovery to date). Where a policy does not have an Investment Account, an equivalent measure will be applied, according to objective criteria to be determined by the Minister of Finance in consultation with the members of the long-term insurance industry.
- 4.3 For Smooth Bonus business, the use of "market value adjusters" should be allowed to adjust the book value account to prevent a shift of investment risk from the client to the life office.

Historical premium cessation

- 4.4. Each member of the LOA shall, voluntarily and of its own volition, following all necessary governance procedures, credit the following minimum standards to early premium cessation that took place during the period 1 January 2001 until the implementation date stated in paragraph 7 –
 - 4.4.1 each retirement annuity fund member policy with the value of at least 65% (sixty-five percent) of the investment account of the policy at the date immediately preceding the early premium cessation;
 - 4.4.1.1 in respect of retirement annuity fund member policies that have lapsed (i.e. are no longer “on the books” of an insurer) these minimum standards will be applied on an application basis by the fund member and benefits will not be automatically adjusted; and
 - 4.4.1.2 the Minister of Finance will give consideration to removing any regulatory or tax constraints that may prevent the fund from paying out such benefits.
 - 4.4.2 each endowment policy which is made paid-up or subject to a premium reduction (i.e. policies still on the books of the insurer), with the value of at least 65% (sixty-five percent) of the investment account of the policy at the date immediately preceding the premium cessation. Retrospective minimum standards do not apply to endowment policies that have been surrendered or lapsed;
 - 4.4.3 each qualifying whole life policy, as identified in accordance with paragraph 2.2.3, with an equivalent value as referred to in paragraphs 4.4.1 and 4.4.2 above; and
 - 4.4.4 each reversionary bonus policy with an equivalent value as referred to in paragraphs 4.4.1 and 4.4.2 above.
- 4.5 Further consideration will be given by the LOA, the National Treasury and the Financial Services Board (FSB) to measures to ensure that equivalent values are credited to other savings products with unusual cost structures, in accordance with objective criteria to be determined by the Minister of Finance prior to the implementation date, after consultation with members of the long-term insurance industry.
- 4.6 The relevant amount, plus interest will be credited to the value of the policy and this benefit enhancement communicated to the policyholder. Interest will be calculated on the basis of the relevant fund's return, capped at a maximum of 10% and a minimum of 0%.

Future premium cessation

- 4.7 Each member of the LOA shall voluntary credit the following policies in respect of which early premium cessation took place after the implementation date stated in paragraph 7, as follows -

- 4.7.1 each retirement annuity fund member policy with the value of at least 70% (seventy) of the investment account of the policy at the date immediately preceding the premium cessation;
- 4.7.2 each endowment policy which is made paid-up or subject to a premium reduction (i.e. policies still on the books of the insurer), with the value of at least 70% (seventy percent) of the investment account of the policy at the date immediately preceding the premium cessation;
- 4.7.3 each endowment policy that does not remain on the books of the insurer (i.e. a policy that is surrendered or lapsed) with the value of at least 60% (sixty percent) of the investment account of the policy at the date immediately preceding the premium cessation;
- 4.7.4 each qualifying whole life policy, as identified in accordance with paragraph 2.2.3, with an equivalent value as referred to in paragraphs 4.7.2 and 4.7.3 above; and
- 4.7.5. each reversionary bonus policy, with an equivalent value as referred to in paragraph 4.7.2 and 4.7.3 above.
- 4.8 It is recognised that these are minimum standards and that each member of the long-term insurance industry is free to apply higher standards of early termination values on a voluntary basis.
- 4.9 It is agreed that the LOA, National Treasury and FSB will give further consideration to appropriate measures to make these minimum standards binding on all members of the long-term insurance industry prior to the date of implementation.

5. REGULATORY FRAMEWORK

Commission regulation

- 5.1 The Minister of Finance will take measures to promulgate revised regulations relating to commissions on retirement annuity fund member policies and other savings policies under the Long Term Insurance Act, 1998.
- 5.2 The revised regulations relating to commissions on retirement annuity fund member policies and other savings policies will provide for a move towards ongoing commission to be paid during the term of a policy, incorporating transitional arrangements to take into account the needs of small and emerging intermediaries. The revised regulations will be subject to a process of wide consultation with all stakeholders prior to promulgation.
- 5.3 Draft proposals will be made available for comment by 28 February 2006, for implementation by 1 October 2006, taking into account that the members of the LOA will need a period of 6 months to make the necessary systems changes.

Jurisdiction of the Pension Funds Adjudicator

- 5.4 The Minister of Finance will facilitate an agreement (memorandum of understanding) between the Pension Funds Adjudicator, the FSOS Ombud and the Long Term Insurance Ombud as to their respective jurisdictions pending the completion of the retirement fund reform process, with due regard to the application of the Long-Term Insurance Act to the policy components of RA's.

Other regulatory framework matters

- 5.5 The Minister of Finance shall take reasonable measures, including requesting the Registrar of Pension Funds to issue practice notes or notices, promulgating regulations or introducing legislation to Parliament, where necessary, to clarify the uncertainties in the existing regulatory framework. These uncertainties relate to:
- 5.5.1 alignment between disclosure requirements under the Pension Funds Act and the Long-Term Insurance Act;
 - 5.5.2 alignment of the time limit for lodging of complaints with the Pension Fund Adjudicator with legislative best practice on prescription matters;
 - 5.5.3 the applicability of minimum benefit increase provisions to retirement fund annuities; and
 - 5.5.4 the issuing of a Code of Governance for Trustees to clarify their fiduciary duties.
- 5.6 The Minister of Finance shall issue regulations and model rules on matters that must be included and addressed in all Retirement Fund Rules (and where appropriate make such rules retrospective in line with the settlement period) and shall consider possible amendments to the Income Tax Act to allow for paid-up retirement annuity fund member policies with a small remaining fund value to be paid out prior to age 55. The regulations and model rules will require that the retirement benefits to be provided to a member of such a Fund shall be equal to the value of the policy benefits provided under the long-term insurance policy issued to the Fund in respect of that member, which policy benefits shall be determined in terms of the provisions of these policies and in accordance with the requirements of the Long-term Insurance Act and the regulations issued under that Act, provided that the minimum standards referred to in paragraph 4.7 is not compromised. The issuing of appropriate regulations under the Long-Term Insurance Act will also be considered.
- 5.7 The National Treasury, FSB and LOA will give further consideration to any measures that may be necessary to provide certainty as to the extent to which surrender values on existing policies may not be challenged, given the commitment to the minimum standards referred to in paragraph 4.7.

6. RESTORING CONSUMER CONFIDENCE

- 6.1 It is agreed that the LOA will coordinate a consumer awareness campaign to explain the minimum standards to consumers.
- 6.2 It is agreed that the Minister of Finance and the FSB will publicly support these minimum standards as the product of a collaborative effort and a major step forward in providing a fair deal to policyholders.

7. IMPLEMENTATION

- 7.1 This Statement of Intent will apply from the date of signature, provided that the implementation of paragraph 4 (minimum standards) is linked to the effective date of the revised commission regulations referred to above.

Signed by the following persons:

SANLAM

OLD MUTUAL

MOMENTUM

LIBERTY LIFE

METROPOLITAN

**Life Offices'
Association of South
Africa**

Minister of Finance