



**THE FINANCIAL SERVICES TRIBUNAL**

**CASE NO. A9/2025**

In a matter of:

**IUM (Pty) Ltd aka ALPHA (Pty) Ltd**

**APPLICANT**

and

**FINANCIAL SECTOR CONDUCT AUTHORITY**

**RESPONDENT**

TRIBUNAL PANEL: LTC Harms (chair), Adv W Ndinisa and Adv A Saldukelr

Appearance for the Applicant: Adv G Kairinos SC

Appearance for the Respondent: Ms Z Mshunqane

Date of hearing: 12 September 2025

Date of Decision: 18 September 2025

Summary: Reconsideration application in terms of section 230 of the Financial Sector Regulation Act No.9 of 2017 -name change under sec 5(9) of the Insurance Act 18 of 2017 refused – application dismissed

---

## DECISION

- 1 The Financial Sector Control Authority dismissed an application made by the applicant, who is not a licensed insurer, to approve the use of the word ‘insure’ as part of its name under sec 5(9) of the Insurance Act 18 of 2017 as amended. Dissatisfied, the applicant applies for reconsideration of the decision.
- 2 It is at the outset once again necessary to restate that this Tribunal is not a review court as defined in PAJA. It is a reconsideration tribunal which deals with wide appeals and ,as far as discretionary decisions are concerned, it applies the standard test: *Jooste v Financial Sector Conduct Authority* (A3/2023) [2023] ZAFST 126 (28 September 2023).
- 3 For the sake of context, we quote some sub-sections of sec 5(9) of the Insurance Act:

### **Insurance business and limitations on other business**

- (1) No person may conduct insurance business in the Republic unless that person is licensed under this Act.
- (3) A person to whom an insurer has outsourced a function or activity is not regarded as conducting insurance business.

(4) An insurer may not, without the approval of the Prudential Authority, conduct any business other than insurance business in the Republic, including any insurance business performed on behalf of another person.

(5) No person may, without the approval of the Prudential Authority, apply to that person's business or undertaking a name or description which includes the word "assure", "insure" or "underwrite", or any derivative thereof, unless that person is licensed as an insurer under this Act.

4 The Prudential Authority delegated its powers under the provision to the respondent ('the Authority').

5 The application to approve the use of Alpha Insure (Pty) Ltd as a name for the company that is not an insurance company was submitted to the Authority by IUM (Pty) Ltd.

6 IUM is a financial service provider registered under the FAIS Act (now under the name Alpha (Pty Ltd)) and describes itself as the largest independently owned cell captive Underwriting Management Agent in Southern Africa, underwritten by Guardrisk Insurance Co Ltd.

7 The reason for the proposed name change was this:

<p>It is important to note that while 'insure' forms part of our proposed name, it does not represent a change in our business description or operations. We continue to function as an Underwriting Management Agent (UMA), operating on behalf of Guardrisk Insurance Company Ltd. We will continue to communicate clearly that all products are underwritten by Guardrisk Insurance Company Ltd, ensuring transparency and consistency. See attached pdf in support of this application (See Attachment. )</p>
---

8 During the process the applicant changed its registered company name at the CIPC to Alpha Insure (Pty) Ltd, despite the pending application and the statutory prohibition.

- 9 The reconsideration application was, however, filed under the name of IUM.
- 10 The filed heads of argument gave the name of the applicant as Alpha (Pty) Ltd, and we were informed from the bar that this is the most recent company name change registered with CIPC.
- 11 Thus, Alpha (Pty) Ltd wishes to be renamed Alpha Insure (Pty) Ltd although it is not an insurer (which requires registration) but conducts ‘outsourced’ functions (ss (3)) as a financial service provider (‘FSP’) with prescribed financial authority.
- 12 The application form for a name change contained the following guidance principles which the Authority applies when considering an application for an exemption under sec 9(3):

The Authority may be prepared to favourably consider an application, if for example:

- a. the word "insure", "assure" or any derivative thereof is used in conjunction with words such as, "broker: "agent", "consultant", "intermediary", or "administrator";
- b. the word “underwrite" is used in conjunction with words such as, "broker", "manager" or "agency";
- c. the name and the description of the business accurately reflects the nature of the business;
- d. the name or the description of the business or undertaking is not misleading by creating the impression that the entity is a registered insurer."

- 13 Although there was a multi-pronged attack on the guidance note in the papers, counsel, without being prodded, did not seek to justify the attack. We

find, in any event, that the guidance note reflects the intention of the Legislature, namely that the name of the applicant should accurately reflect the nature of its business and should not be misleading by creating the impression that it is a registered insurer.

- 14 It does not require the tortuous route of considering the rules of interpretation (*Natal Joint Municipal Pension Fund v Endumeni Municipality* 2012 (4) SA 593 (SCA)) since the words are unusually clear and the only issue relates to the exercise of the discretion of the Authority to approve a name that contains one of the proscribed words.
- 15 If the terms are used adjectively, as in the examples given in paras (a) and (b), the use would accurately reflect the nature of the business concerned and would not be misleading in the sense stated.
- 16 It is not accepted that the intention of the Insurance Act was to permit the Authority to countenance names that are, objectively, misleading.
- 17 The applicant accepted, in its papers and during argument, that had it applied for the name Alpha Insurance [or Insurer] (Pty) Ltd instead of Alpha Insure (Pty) Ltd, the dismissal of its name change application would have been justified.
- 18 The word 'insure' as a verb which, according to *Garner Modern Legal Usage 2 ed*, follows from the noun 'insurance' and without having to quote dictionaries means to arrange for financial indemnification against perils and involves paying premiums to an insurance company in exchange for coverage.

- 19 Since 'insure' – the proscribed word – is the verb that describes the work of parties that conduct the business of 'insurance' or act as 'insurers', we fail to discern the distinction. The verb and the cognate nouns as part of a name give the same impression – they are *per se* misleading unless the business is that of a registered insurer.
- 20 The applicant sought to justify its name change application in the following terms (numbering added):
- (a) The use of the word "insure" serves as a direct reference to the industry in which the Applicant operates and the solutions offered. Our mission encapsulates our unwavering dedication to safeguarding our clients' Interests through two primary commitments: providing protection and reducing risk.
  - (b) While we acknowledge the intent of section 5(9) of the Insurance Act is to prevent confusion and protect the public from misleading claims, we submit that our use of 'insure' will not misrepresent the services we provide, nor create any assumption that we are an Insurer. We intend to include clear disclaimers where necessary and will ensure that our marketing and branding efforts avoid any potential misinterpretation of our role to brokers and clients.
  - (c) We are committed to full transparency and compliance with all regulations governing the Insurance and financial sectors. Our company will maintain strict guidelines in all communications and documentation, ensuring that no representation is made that we are a licensed insurer.
  - (d) We believe that the approval of the proposed name, will enable us to more effectively position our company within the market while remaining compliant with all regulatory obligations.

- 21 Point (a) applies to every broker, every financial service representative and every financial service provider and especially every cell captive managing general agent' in the insurance industry. If this consideration were to be of any value, sec 5(9) would have permitted everyone operating in the insurance field, and not only registered insurers, to use the words of part of their name.
- 22 If the justification in (d) would be acceptable it, likewise, would apply to every broker or FSP. We fail to see what is so special about the applicant that it should be entitled to the privilege of using the proscribed word to the exclusion of its competitors.
- 23 Points (b) and (c) depend on the undertaking of the applicant not to mislead the public 'that we are a licensed insurer'. It also says that it will comply with all its regulatory obligations. There are many answers to this. The applicant by implication concedes that without more the name is objectively misleading but undertakes to ensure through other means that it does not actually mislead. Such an undertaking cannot be a term of an approval. The name change approval cannot be subject to unenforceable terms. And the obligation to comply with regulatory requirements exists in any event.
- 24 But the facts disprove the value of the undertaking. We have already referred to the fact that the applicant had changed its registered company name to Alpha Insure during the application process until it presumably realised that it was shooting itself in the foot and consequently changed the company name registration to Alpha.

25 Then there is the instance where the applicant, on a social internet platform, (a) advertised itself as 'alpha.insure', (b) stated that it was an 'insurance company', and (c) announced that it provided 'innovative insurance'.

26 When the Authority discovered this, the applicant said that (b) had been an error by someone who was 'obliged' by the platform lay-out to pick a business category, and that 'insurance company' was the closest it could find.

27 The applicant did not seek to justify points (a) and (c).

28 In reaction to the Authority's affidavit, it removed the incriminating advertisement and replaced it with the name Alpha only, but still indicating that its field, apart from being a UMA, is 'insurance' (AB 4). However, on Instagram (AB5) it still calls itself 'alpha.insure', despite the provisions of sec 5(9).

29 As a check permitted under sec 232(4) of the Financial Sector Regulation Act 9 of 2017, we did a Google search on 16 September 2025 and found that 'Alpha Insure' is advertising its stand at the African Mining Indaba to be held during February 2026. Not without interest is the statement that:

Our innovative approach to risk and superior service offering, yields tangible benefits to clients, intermediaries, employees, and stakeholders, ensuring transparency in the application of Alpha Insure's corporate governance practices. Offering market-leading insurance solutions that provide cover for multinational corporations, local businesses, and individuals.



- 30 The third instance is Alpha Insure's proposed "commercial policy schedule" to be found at A97. On the right-hand side one finds the Alpha Insure name and wolf logo and on the right-hand side GUARDRISK.



- 31 This is the policy document which is provided to the insured. As the American saying goes, what a contract giveth in large print it taketh away in small print. The smaller print reflects the name of the parties to the commercial policy. First there is the insured, then the intermediary which is to those in the know the insurance broker and the agent of the insured (something in the experience of the Tribunal not generally known by the public), and thirdly Alpha Insure as the cell captive managing general agent. Last, the insurer is identified as Guardrisk.
- 32 Since we were not enlightened during the hearing what 'cell captive managing general agent' means we turned to AI, and we learnt the following:

A cell captive managing general agent (MGA) is a hybrid role in the insurance world that blends the flexibility of a cell captive structure with the operational authority of an MGA.

A cell captive is a specialized insurance arrangement where a company (the "cell owner") partners with a licensed insurer (the "core") to create a legally distinct "cell" within the insurer's structure. This allows the company to insure its own risks or those of its customers, retain underwriting profits, and avoid the cost and complexity of setting up a full

insurance company. Each cell operates independently, with its own assets and liabilities, protected from other cells and the core insurer.

A Managing General Agent is a type of insurance intermediary that has delegated authority from an insurer to underwrite policies, price risk, handle claims, develop products, sometimes even manage reinsurance and act almost like a mini-insurer, but without holding the actual risk on their balance sheet.

- 33 The problem as it transpired during argument is that the insured is unlikely to know what the function of Alpha Insure (whose document it is) to the agreement is. To say that the insured does not deal directly with the applicant begs the question (if not untrue if regard is had to the Mining Indaba blog quoted) . Why are the contact references to the insurer and the cell holder that of the applicant? If the client has no interest in the name of the cell holder, why is the cell holder the prominent contract party and why are the contact particulars of the cell holder given – only to be told (said counsel) by the applicant upon enquiry to go elsewhere? If the client wishes to sue on the Alpha Insure’s policy, is the applicant an interested party?
- 34 The name Alpha Insure would be misleading on the register of the CIPC because anyone would be entitled to assume that the name represents the lawful nature of the business, which it is not. The name says that Alpha insures, and only a registered insurer may do so, which (repeatedly) Alpha may not do.
- 35 Although we have concluded on reconsideration in the light of the foregoing that the Authority had rightly dismissed the application we shall nevertheless

deal with the argument directed at the Authority's reasons for dismissing the application.

- 36 The applicant spent an inordinate amount of time and paper (3000 odd pages) to show that the Authority had in the past permitted some 284 out of 3000 FSPs to use one of the proscribed words in a registered name that does not comply with the guidance note. The Authority considered these facts in its decision and accepted that errors occurred but, apart from pointing out that only five FSPs had been incorrectly registered, submitted that an illegality cannot create a 'legitimate' expectation. Applicant's counsel did not press the argument.
- 37 The main argument was that the Authority irrationally applied the guidance rules without regards to the facts and thereby failed to exercise its discretion with an open mind. The submission is without merit. One must read the reasons unblinkered. The Authority said that the proposed name does not reflect the nature of the business correctly; that the application does not comply with the guidelines; and the fact that the applicant does not deal directly with the public is not a significant 'mitigating factor' since there is a risk that the Authority must contain through the process.
- 38 Something was made about the Authority's statement that the applicant 'may easily lead smaller and more vulnerable FSPs into believing that they are the insurer', submitting that there cannot be a 'vulnerable' FSP since they are all supposed to be experts in the insurance field. Unfortunately, the case load of the Tribunal tells another story.

39 In conclusion, it is not without interest to note that the applicant is in the process of applying for the registration as an insurer. If that application succeeds, one assumes that there will not be another attempted name change because the name would then describe its business perfectly. The intended change of business model is probably the motive for an early name change.

ORDER: The application is dismissed.

Signed on behalf of the Tribunal panel.

\_\_\_Sgd L T C Harms\_\_\_\_\_

LTC HARMS