

FSCA COMMUNICATION 19 OF 2020 (INS)

Publication of exemptions for short-term insurers and long-term insurers providing premium relief, from certain provisions of the Regulations under the Short-term Insurance Act, 1998 and the Long-term Insurance Act, 1998 (the Acts)

15 April 2020

1. PURPOSE

The purpose of this Communication is to:

- inform stakeholders that two general exemptions have been published on the Financial Sector Conduct Authority's ("the Authority") website; and
- provide context to the intention behind the exemptions.

2. BACKGROUND

- 2.1 The Financial Sector Conduct Authority (the Authority) acknowledges the potential impact of COVID-19 and the nationwide lockdown on the ability of affected policyholders to pay the premium due on their policies. The Authority has also been approached by a number of insurers which have indicated that they would like to grant premium relief to such policyholders.
- 2.2 Premium relief may also in certain circumstances have the effect of placing the policyholder in an extended period of restriction whereby the policyholder will not be able to receive policy benefits or request either a partial or full surrender or loan in respect of an investment policy, which may be to the detriment of the policyholder.
- 2.3 In addition, the Authority further recognises that the inability to pay premiums as a result of the COVID-19 pandemic will have a negative impact on the income of intermediaries many of whom are small businesses and may be unable to sustain significant income reduction.
- 2.4 These possible consequential effects could stem from provisions that determine that commission may only be paid on receipt of premium and provisions that provide for commission adjustment or so called "claw back" when the actual premium received is less than anticipated.
- 2.5 To minimise the potential unintended consequences for policyholders who choose to make use of the premium relief, and the impact of premium relief on commission income of intermediaries, the Authority is exempting insurers that will be granting premium relief to policyholders from the aforementioned requirements contained in the Regulations under the Acts, subject to certain conditions.

3. THE RELIEF INTENDED WITH THE EXEMPTION NOTICE RELATED TO SHORT-TERM INSURANCE

- 3.1 The exemption notice related to short-term insurance is aimed at facilitating, at the discretion of the insurer, the delivery of premium relief to policyholders without impacting the expected income of intermediaries which they receive through commission.
- 3.2 The exemption related to short-term insurance includes distinct conditions with which an insurer intending to rely on the exemption must comply. These conditions include a requirement that policy benefits, where premium relief is granted, must not be stopped, reduced or limited. This means that valid claims should be honoured where the claim event occurred during the premium relief period.
- 3.3 It also provides that where commission is paid in respect of a policy that is subject to premium relief, such commission may still be paid at the discretion of the insurer to assist small businesses and not exceed the maximum allowable commission prescribed in Regulation 5.3(1).
- 3.4 Furthermore, the Authority included a condition limiting the exemption to policies where the policyholder is in good standing with the insurer (e.g. no outstanding premium). This prevents the insurer or broker from attracting new business by offering premium relief and attempts to avoid the potential abuse of premium relief by policyholders that have tendencies to default on premiums, and who are more likely to use the COVID-19 pandemic as an invalid excuse not to pay premiums.

4. THE RELIEF INTENDED WITH THE EXEMPTION NOTICE RELATED TO LONG-TERM INSURANCE

- 4.1 The exemption notice related to long-term insurance is aimed at facilitating the delivery of premium relief to policyholders by providing for the exemption from immediate adjustment of commission due to a reduction in premium received by the insurer. This exemption notice also aims to prevent the policyholder from being placed in an extended restriction period and/or the policy attracting causal event charges due to the premium relief being accepted.
- 4.2 The conditions in this exemption include a requirement that when it comes to the adjustment of commission, in the event that the premium relief remains unpaid for a period longer than 12 months, the adjustment of commission must be effected.
- 4.3 In terms of the restriction period, the conditions include a requirement to clearly disclose any adverse implications from accepting the premium relief and that no additional causal event charges should be charged flowing from the relief granted.
- 4.4 As with the exemption notice related to short-term insurance, the Authority included a condition limiting the exemption to up to date policies, in an attempt to avoid the potential abuse of premium relief by policyholders that have tendencies to default on premiums, and who may be more likely to use the COVID-19 pandemic as an invalid excuse not to pay premiums due.
- 4.5 The Authority believes that these exemptions will assist insurers to provide premium relief options to affected policyholders while limiting the adverse consequences to the intermediaries by still allowing insurers to pay commission to the intermediaries servicing these policies where they deem it necessary to do so.

5. CONTACT

For further information regarding this Communication please contact the Regulatory Framework Department of the Authority by emailing Johann van der Lith at johann.vanderlith@fsca.co.za.