



FSB

INSURANCE DIVISION

REGULATORY PROJECTS

Jo-Ann Ferreira
Head: Insurance Regulatory Framework
Insurance Regulatory Seminar, 2011



LEGISLATION

- **Financial Services General Amendment Bill, 2012 (FSLGAB)**
- With National Treasury
- Public consultation late 2011 / beginning 2012
- Envisage that it will be in Parliament in 2012



LEGISLATION

- **FSLGAB (cont)**
- Purpose:
 - closes regulatory gaps and effects technical amendments
 - rationalise and align the supervisory powers and functions afforded to the Registrars
 - align the FSB laws referred to with the Companies Act, 2008



LEGISLATION

- **Insurance Laws Amendment Bill, 2012 (ILAB)**
- Made available to the SAM structures on 26 August for comment by 30 September
- Public consultation 2012
- Envisage that it will be in Parliament in 2012



LEGISLATION

- **ILAB (cont)**
- Purpose:
 - interim measures
 - governance
 - risk management
 - internal controls
 - group supervision
 - regulatory gaps and technical amendments



LEGISLATION

- **Micro-insurance Bill, 2012**
- Steering committee established by NT to guide drafting of Bill
- Drafting and public consultation 2012
- Implementation 2013/2014



LEGISLATION

- **Comprehensive review of the Insurance Laws**
- 1st draft addressing the new Solvency Assessment and Management regime made available to the SAM structures & comments received
- 2nd draft addressing IAIS ICPs to be made available by the end of October
- Will be subjected to public consultation in 2012
- Envisage that it will be in Parliament in 2013



LEGISLATION

- **Comprehensive review (cont)**
- The review has four elements, as follows:
 - Solvency Assessment and Management regime (SAM)
 - International Association of Insurance Supervisors (IAIS) Insurance Core Principles (ICPs)
 - Treating Customers Fairly Project and other general market conduct best practices
 - Review of the existing legislative framework (identifying gaps & addressing SA specific industry developments and trends)



LEGISLATION

- **Comprehensive review (cont)**
- Elements 1 and 3 are undertaken within comprehensive and inclusive consultative structures
- Elements 2 and 4 are desk top reviews
- Elements 2 and 4 are informed by –
 - the findings and recommendations of the 2010 IMF/World Bank Financial Sector Assessment Programme (2010 FSAP)
 - recommendations of the G20 and Financial Stability Board



LEGISLATION

- **Comprehensive review (cont)**
- Element 4 also informed by, amongst others, -
 - developments in comparable jurisdictions
 - regulatory action taken by the Registrars
 - jurisprudence and other relevant determinations by administrative bodies



LEGISLATION

- **Comprehensive review (cont)**
- Element 4 also informed by, amongst others –
 - SA legislative developments regarding the general regulatory architecture
 - such as draft Unified Insolvency Bill, NT policy papers on micro-insurance & strengthening financial regulation
 - the regulatory effectiveness of the LT & ST Insurance Acts
 - i.e. the extent to which the broader regulatory framework supports the objectives of insurance regulation



REGULATIONS

- **Binder regulations**
 - 2nd release for comment by MoF – 22 July
 - Comments under consideration
 - Submission to Parliament 1 month prior to promulgation
 - Envisaged promulgation by end 2011



REGULATIONS

- **Demarcation regulations**
- Process started with enactment of Insurance Laws Amendment Act, 2008
- Act provides a mechanism to facilitate a clear demarcation between insurance business & business of a medical scheme through Regulations to be made by MoF
- However, amendment of the Medical Schemes Act definition of “business of a medical scheme” necessary



REGULATIONS

- **Demarcation regulations (cont)**
- A work group representing NT, FSB, National DoH, FSB, COMS, SAIA, ASISA and the BHP mandated to make recommendations re Draft regulations – it is considering draft regulations
- FSB has issued information request on products offered as health policies and accident & health policies to assess potential impact of the pending regulations



REGULATIONS

- **Demarcation regulations**
- **Policy position:** Clear demarcation necessary to support and enhance the objectives of the Medical Schemes Act (i.e. the principles of community rating, open enrolment and cross-subsidisation within medical schemes)



DISCUSSION PAPERS

- **Group policies**
- To develop clear and unambiguous proposals to guide the implementation of the Insurance Laws
- To explore possible legislative amendments to ensure proper policyholder protection in group schemes, while being mindful of continuing to support access to insurance



DISCUSSION PAPERS

- **Intermediated services & related remuneration**
- Clarifying interpretation issues and exploring legislative/regulatory changes to –
 - bring about consistency in treatment of intermediary services and related remuneration
 - ensure related remuneration is not inconsistent with fair treatment of customers
 - support appropriate, cost-efficient and fair advice and services while recognising importance of the intermediated insurance model



DISCUSSION PAPERS

- **3rd party cell & similar arrangements**
- To be preceded by a focused investigation, building on the information gathered under IL 3/2009
- Will enable informed decisions on the alignment and revision of the registration conditions of 3rd party cell arrangements
- Will in particular inform view on whether to allow granting of 3rd party cells to persons that are not underwriting managers as defined in the draft binder regulations – and if so, under what conditions



DISCUSSION PAPERS

- **3rd party cell & similar arrangements (cont)**
- Scope includes affinity cell captive arrangements and arrangements that have the same effect as a 3rd party cell arrangement
 - such as an equity participation in the holding company of an insurer where dividend payments depend on the quantity of insurance business directed to the insurer by the equity holder
- **Policyholder protection schemes**
- To assess how best effect may be given to international standards taking into account SA sector and environment



DISCUSSION PAPERS

- **Regulatory framework for undertaking reinsurance business in South Africa**
- Whether to allow foreign reinsurers to operate on a branch basis, and if so, under what conditions
- Whether to allow reinsurers to continue to operate on the basis of a composite licence
- Whether to continue with the concept of “approved” and “non-approved” reinsurance or whether an alternative basis should be adopted
- RFP issued – research to commence Nov 2011, report by July 2012



DIRECTIVES

- **Outsourcing**
 - Outsourcing may materially increase risk to insurers or materially adversely affect their ability to manage risks and meet regulatory obligations
 - International standards suggest an appropriate regulatory framework that requires adequate management of these risks
- **Reg 28**
 - To provide guidance on what constitutes guaranteed policies for purposes of section 28 of the PFA



DIRECTIVES

- **Encumbered assets**
- To provide guidance on the treatment of operating/financial leases for solvency purposes
- To provide Guidance on the encumbrance of assets relating to:
 - Cash collateral posted for OTC derivatives
 - Margin deposits held at SAFEX
 - Assets of foreign branches where the foreign jurisdiction requires the assets to be held in trust



DIRECTIVES

- **Assistance business group schemes**
- To clarify the legislative position, specifically in respect of inappropriate market practises
- **Maximum causal event charges**
- Directive will still be issued



FSB

INSURANCE DIVISION

Questions & discussion