

FSCA COMMUNICATION 5 OF 2019 (INSURANCE)

Publication of format for replacement advice record in terms of Rule 19 of the Policyholder Protection Rules (Long-term Insurance), 2017 and related documents

27 May 2019

1. PURPOSE

The purpose of this Communication is to inform stakeholders that the format for a replacement advice record (“RPAR”) in terms of Rule 19 of the Policyholder Protection Rules (Long-term Insurance), 2017 (“PPRs”) and related documentation has been published on the FSCA’s website with an effective date of 1 September 2019.

2. BACKGROUND

- 2.1. Rule 19 of the PPRs sets out the prerequisites for a long-term insurer when entering into an individual risk policy that constitutes a replacement as defined in the PPRs.
- 2.2. In terms of Rule 19 an insurer must, prior to entering into an individual risk policy that constitutes a replacement, obtain a copy of the record of advice that the intermediary is required to provide to the policyholder in accordance with section 9(1)(d) of the FAIS General Code of Conduct¹ and satisfy itself that the record complies with the disclosure requirements set out in section 8(1)(d) of the General Code.
- 2.3. Rule 19.2.6 provides that the FSCA may determine the format for the RPAR referred to in Rule 19.
- 2.4. The development of a format of the RPAR has been widely consulted on by the Authority through public consultation, which included the testing of the format by volunteers from industry and extensive input from insurers, intermediaries and various industry representative bodies. Four different versions of the template were consulted on and the draft templates were published twice for formal public consultation.

3. DOCUMENTS PUBLISHED

- 3.1. The RPAR format has been finalised based on the comments received through the most recent public consultation process, which ended on 30 April

¹ General code of conduct for authorised financial services providers and representatives as published under Board Notice 80 in *Government Gazette* 25299 of 8 August 2003 and amended from time to time.

2019. Only minor editorial changes have been made to version 4.3 which was published for public consultation in March 2019.

3.2 The following related documents are published together with this communication:

- a) Insurance (LT) Notice 3 of 2019 –Format for replacement advice record (individual risk policies) with attached schedule which sets out the final RPAR format as determined;
- b) FSRA Compliance Extension Notice 1 of 2019 – a further extension of the period to comply with PPR Rule 19 and Regulation 3.9A is granted until 1 September 2019.
- c) Draft FSRA Exemption Notice 1 of 2019 (LTIA) – this proposes the exemption of insurers that offer assistance, funeral and / microinsurance products from the application of the requirements in Rule 19 and Regulation 3.9A, insofar it relates to such policies. The draft exemption is published for public comment until 1 July 2019.

Regarding FSRA Compliance Extension Notice 1 of 2019:

3.3 The period for compliance with Rule 19 as set out in FSRA Compliance Extension Notice 1/2018 (LTIA) has been extended until 1 September 2019 on request of certain long-term insurers and industry associations, who made a strong plea for a reasonable period for implementation. Insurers argued that integrating the format into insurers' front end systems will require IT system changes which need to be developed and tested as well as training of intermediaries which will be required on the use of the final RPAR format. The Authority recognises the practical challenges related to the implementation of the format and holds the view that, as these developments have been ongoing since before January 2018, a three month implementation period until 1 September 2019 will be reasonable.

Regarding draft FSRA Exemption Notice 1 of 2019:

3.4 The FSCA intends to exempt insurers from compliance with Rule 19 insofar as it relates to the replacement of individual risk policies that constitute assistance policies as defined in the LTIA or funeral policies or microinsurance policies as defined in Rule 2A of the PPRs. The exemption, to be issued in terms of section 281 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), is published together with this communication for public comment until 1 July 2019. Please note that, notwithstanding this exemption, the relevant requirements relating to replacements in terms of the FAIS General Code will continue to apply in respect of these policies.

4. NEXT STEPS

4.1. Interested parties are invited to submit comments on the draft FSRA Exemption Notice 1 of 2019 (LTIA) in writing by **1 July 2019** to FSCA.INSRPARformat@FSCA.co.za.

- 4.2. Insurers are expected to ensure that they comply with Rule 19 and Regulation 3.9A by 1 September 2019 and no further extensions will be granted in this regard. Failure to comply with these requirements may result in regulatory action.

5. CONTACT

For further information regarding this Communication please contact the Regulatory Framework Department of the FSCA by emailing Lezanne Botha at lezanne.botha@fsc.co.za.