

Treasury on draft amendments to regulations

23 Mar 2018

Publication for comment of the draft amendments to the regulations to be made in terms of the Long-Term Insurance Act of 1998 and Short-Term Insurance Act of 1998

The National Treasury (NT) today publishes for comment draft amendments to the Regulations (Regulations) to be made by the Minister of Finance in terms of the Long-term Insurance (LTI) and Short-term Insurance (STI) Acts.

The draft amendments to the Regulations aim to:

- align the Regulations (specifically terminology) with the Insurance Act, 2017 (Insurance Act) as enacted on 18 January 2018;
- further strengthen policyholder protection by providing for more robust legislative requirements pertaining to the collection of premiums by intermediaries; and
- amend the binder regulations to provide for certain procurement and transformation requirements.

The Insurance Act provides for the prudential legislative framework for insurers. The commencement date of the Insurance Act is still to be determined by the Minister. The Financial Services Board (FSB) hopes the necessary consultation process will be completed in time so that commencement of the Insurance Act can be 1 July 2018.

The Insurance Act repeals all prudential requirements that are currently provided for in the LTI Act and STI Act, but provides for a two-year transition period for insurers to migrate from the existing to new framework. Non-prudential sections in the LTI Act and STI Act, will remain in force in parallel to the new prudential requirements, to provide an interim conduct of business legal framework for insurers pending implementation of the envisaged Conduct of Financial Institutions Act (still in drafting phase).

Over this transition period it is important that insurers are subject to equivalent regulatory requirements for market conduct across the existing and new frameworks, in order to promote regulatory certainty for regulated entities, and ensure a level regulatory playing field across the two frameworks to mitigate the risk of regulatory arbitrage (regulated entities should not be disadvantaged by entering into the new framework, relative to those that have not yet migrated across).

In support of consumer protection, the proposed amendments to Regulations made in terms of the STI Act and LTI Act give effect to this “equivalence” across the LTI Act, STI Act and Insurance Act, specifically in respect of premium collection. The Regulations improve the

premium collection framework for the entire insurance market and compels insurers to have appropriate oversight by independent intermediaries collecting premiums.

In support of transformation of the insurance sector, the proposed amendments better align the insurance law to requirements of the Financial Sector Code issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, No. 53 of 2003. The proposed amendments to Regulations require binder agreements between insurers and third parties to provide for mechanisms and measures that will assist the insurer in meeting procurement, enterprise and supplier development targets relating to the transformation in the insurance sector.

The proposed amendments must be read with the draft amendments to the Policyholder Protection Rules (PPRs) published by the FSB on 2 March 2018 for public comment by 13 April 2018. The proposed amendments to the PPRs aim to:

- align the PPRs (specifically terminology) with the Insurance Act;
- provide for certain conduct of business related requirements that will be repealed from the LTI Act and STI Act through Schedule 1 to the Insurance Act, once the latter Act commences, as these conduct requirements are better placed in subordinate legislation; and
- provide for microinsurance product standards by giving effect to the National Treasury's Microinsurance Policy Document released in July 2011.

The National Treasury welcomes comments on the draft Regulations by the 23 April 2018.

Supporting Annexures

- The following supporting Annexures are also available on the National Treasury's website at www.treasury.gov.za/twinpeaks/ and the Financial Services Board's website at www.fsb.co.za
- Annexure A Short-term Insurance Draft Regulations Gazette No.41523
- Annexure B Long-term Insurance Draft Regulations Gazette No. 41523
- Annexure C Tracked changes version of the existing Short-term Insurance Regulations showing the proposed amendments
- Annexure D Tracked changes version of the existing Long-term Insurance Regulations showing the proposed amendments
- Annexure E Statement explaining the amendments
- Annexure F Comment templates

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