

FSCA COMMUNICATION 26 OF 2023 (INS)

PUBLICATION OF THE DRAFT EXEMPTION NOTICE OF MICROINSURERS FROM RULE 2A.6.1 OF THE POLICYHOLDER PROTECTION RULES (LONG-TERM INSURANCE), 2017

1 PURPOSE

- 1.1 The purpose of this Communication is to inform stakeholders that the Financial Sector Conduct Authority (“FSCA”) today published a draft Notice proposing to provide a general exemption for microinsurers from Rule 2A.6.1 of the Policyholder Protection Rules (Long-Term Insurance), 2017 (LT PPRs), for public consultation.
- 1.2 Furthermore, the purpose of this Communication is to invite comments on the draft exemption Notice. Stakeholders and other interested parties are invited to submit their comments by **14 November 2023**. Comments should be addressed to: Johann van der Lith, by using the attached comments template and submitting it via email to: FSCA.RFDStandards@fsca.co.za.

2 BACKGROUND

- 2.1 In July 2011, National Treasury issued its policy document titled “The South-African Microinsurance Regulatory Framework”.¹ In this policy document, National Treasury proposed the regulatory framework for microinsurance in South Africa. The main objectives of the Microinsurance Regulatory Framework were explained to be twofold: firstly, to promote market development and competition, and secondly, to enhance financial inclusion by introducing a framework supporting more affordable and accessible products for vulnerable/low-income consumers. Through the so-called Tranche 2 amendments to the LT PPRs, the FSCA introduced Rule 2A into the LT PPRs. This rule was inserted to provide for microinsurance product standards to complement the microinsurance regulatory framework, as established by the Insurance Act, 2017 (Act No. 18 of 2017), and to provide for certain corresponding standards for funeral policies written by insurers other than microinsurers.
- 2.2 In respect of policy benefits payable on the happening of a death, disability or health event resulting from natural causes, Rule 2A.6.1 of the LT PPRs provides that a microinsurance policy may not impose a waiting period exceeding the shorter of one-quarter of the term of the policy or six months.
- 2.3 Read with Rule 2A.4.1 of the LT PPRs, which restricts a microinsurance policy contract term to 12 months, Rule 2A.6.1 of the LT PPRs essentially provides that a microinsurance policy cannot impose a waiting period of longer than three months for death, disability or health event resulting from natural causes. This is at odds with the six-month waiting period that is permitted for so-called traditional insurers that offer funeral policies.

¹<https://www.treasury.gov.za/publications/other/microinsuranceregulatoryframework/policy%20document%20micro%20insurance.pdf>

- 2.4 This restriction in respect of the waiting period leaves microinsurers at a competitive disadvantage because their products will be subject to higher rates of adverse selection, therefore their premiums may have to be priced higher than those of traditional insurers in respect of the same product type. Waiting periods are one of the only few risk-management tools insurers have to manage anti-selection risk, which is prevalent in the funeral market. A shorter waiting period for the same benefit offering could result in the microinsurer inheriting or attracting higher risks, which may have been deterred by longer waiting periods included on a comparable funeral product offered by other life insurers.
- 2.5 The limitation on waiting periods applicable to microinsurance policies may have the unintended consequence of microinsurers imposing higher premiums to manage the adverse selection risk, which would be to the detriment of vulnerable and low-income customers that this segment of the insurers are intended to serve. Providing the ability to impose similar waiting periods between microinsurers and other life insurers, where necessary, will allow for competitive pricing on these policies to the benefit of customers, and in support of the intended objective of the microinsurance policy framework. The proposed exemption intends to restrict waiting periods for death or disability due to natural causes to a maximum of 6 months, which aligns with the policy proposal mooted in the Microinsurance Regulatory Framework policy document².

3. PROPOSED GENERAL EXEMPTION FROM RULE 2A.6.1

- 3.1 As such, the FSCA is proposing to exempt all microinsurers from Rule 2A.6.1 of the LT PPRs, subject to the conditions as set out in the draft Notice, in order to align the regulatory framework with the intended policy objectives of promoting market development and competition, and enhancing financial inclusion by enabling microinsurers to provide affordable and accessible policies to vulnerable and low-income consumers. The proposed exemption will level the playing field between traditional insurers and microinsurers and is intended to promote further market developments within the microinsurance sector and deepen financial inclusion through competitive pricing.
- 3.2 With the publication of this draft Notice, the FSCA is inviting comments from the public, which will be deliberated on before a final exemption is granted .
- 3.3 A longer-term solution will require amendments to the Policyholder Protection Rules. However, as explained in the FSCA's 3-year Regulation Plan that was published on 30 June 2022 and confirmed in the recently updated Plan published on 5 July 2023³, the FSCA will not progress any amendments to the Policyholder Protection Rules at this stage. The contemplated changes will be dealt with as part of the process of developing a regulatory framework under the Conduct of Financial Institutions (CoFI) Bill and transitioning the existing sector laws (such as the Policyholder Protection Rules) to the new framework under the CoFI Bill. The exemption is therefore intended to serve as an interim solution pending the transition of the Policyholder Protection Rules to the new conduct framework under the CoFI Bill.

4. AVAILABILITY OF THE DRAFT EXEMPTION NOTICE AND ENQUIRIES

- 4.1 The draft exemption Notice, together with this Communication, is available on the FSCA's website (<https://www.fsca.co.za>) under Regulatory Framework > Documents for Consultation > Insurance > 2023.

²See paragraph 2.1.1 (h) on page 12 of the Microinsurance Regulatory Framework Policy Document which sets out the reasoning behind the 6 month waiting period.

³<https://www.fsca.co.za/Regulatory%20Frameworks/Temp/2023%20fsca%203year%20regulation%20plan%5Bv2%5D.pdf>

4.2 For more information regarding this Communication, this draft Notice, and the contents thereof please contact the FSCA Regulatory Framework Department by emailing Johann.Vanderlith@fsca.co.za



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