

FINANCIAL SECTOR REGULATION ACT, 2017 (ACT NO. 9 of 2017)

FSCA COMMUNICATION 1 OF 2018

Update on the development of a format for the replacement advice record in terms of rule 19 of the Policyholder Protection Rules (Long-term Insurance), 2017

06 December 2018

1. PURPOSE

The purpose of this Communication is to provide a status update on the development of a format for the replacement advice record ("RPAR") referred to in Rule 19.2.6 of the Policyholder Protection Rules (Long-term Insurance), 2017 made under section 62 of the Long-term Insurance Act, 1998 (Act No. 52 of 1998) promulgated by Government Notice No. 1407 in *Government Gazette* 41321 of 15 December 2017 ("PPRs").

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 Conduct 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. In March 2018 the former the Financial Services Board ("FSB") engaged with the Market Conduct Regulatory Framework Steering Committee ("MCRF SteerCo") on a proposed template for the format of the RPAR. The draft template was subsequently revised based on input received from members of the MCRF SteerCo and an updated draft template was issued for public comment on 5 September 2018 in Insurance (LT) Notice 2 of 2018.

2.5. Based on the comments received and as a result of subsequent engagements with individual insurers, the FSCA has recognised that the

current proposed format of the RPAR raises specific practical challenges and may not necessarily achieve the intended outcomes envisaged by Rule 19 of the PPRs.

2.6. The intended outcome of prescribing a consistent format for the RPAR is to ensure that the comparison done by an intermediary between a replacement policy and a replaced policy:

- is clearly and easily understood by the policyholder;
- contains a concise analysis of the suitability of both the replacement and the replaced policy;
- contains sufficient information regarding the replacement policy and the replaced policy to allow the policyholder to make an informed decision about the suitability and appropriateness of the respective policies; and
- sets out clearly why the intermediary is of the view that the replacement policy would lead to more favourable outcomes for the policyholder.

3. NEXT STEPS

3.1. In light of the above, and based on the feedback received to date, the FSCA, is in the process of further refining the RPAR template with the intention of publishing an updated format for additional consultation during February 2019.

3.2. To facilitate this additional consultation process the FSCA extends the period for compliance with Rule 19 of the PPRs and Regulation 3.9A of the Regulations made under the Long-term Insurance Act, 1998) to 1 July 2019, as set out in FSRA Compliance Extension Notice 1/2018 (LTIA).

4. 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.