

Insurance Act 18 of 2017

Joint Communication 7 of 2021

Change in naming convention pursuant to the licence conversion process in terms of the Insurance Act, 2017

1. Purpose

1.1 The purpose of this Joint Communication (Communication) is to:

- 1.1.1 Confirm the application of section 23(5) read with item 6(6) to Schedule 3 of the Insurance Act, 2017 (Act No. 18 of 2017) (Act) in relation to the naming convention referencing a licensed insurer or controlling company.
- 1.1.2 Confirm the preference of the Prudential Authority (PA) and the Financial Sector Conduct Authority (FSCA) (collectively referred to as the Authorities) as to the naming convention referencing a licensed insurer or controlling company in terms of section 23(5) of the Act.
- 1.1.3 Confirm the view of the Authorities in respect of deviations and/or variations from the preferred naming conventions, including the status of legacy naming conventions.

2. Background

- 2.1 Prudential Communication 2 of 2018 described the process that would be undertaken by the PA for the conversion of registrations under the Long-term Insurance Act, 1998 (Act No. 52 of 1998) (LTIA) and Short-term Insurance Act, 1998 (Act No. 53 of 1998) (STIA) to licences under the Act as required under Item 6(3)(a) (Continuation of previously registered insurers) in Schedule 3 (Transitional Arrangements) to the Act.
- 2.2 Item 6(4) of Schedule 3 to the Act specified that the PA must convert the registration of a previously registered insurer to a licence to conduct a class and/or subclass of life insurance business or non-life insurance business referred to in Schedule 2 to the Act if the previously registered insurer, immediately prior to the effective date of the Act, was actively and prudently conducting insurance business similar to that class or sub-class of insurance business.
- 2.3 The process of converting the registration of previously registered insurers to a licence to conduct insurance business as described in paragraph 2.2 supra was concluded on 30 June 2020. Licensing certificates reflecting the classes, sub-classes, and specific licensing conditions applicable to individual insurers in terms of the Act have been issued.

- 2.4 Item 6(6) of Schedule 3 to the Act specifies that section 23(5) of the Act comes into effect six months after the date on which a previously registered insurer's registration is converted to a licence. Section 23(5) of the Act states as follows:

"An insurer and controlling company must ensure that a reference to the fact that such a licence is held is contained in all business documentation and advertisements and other marketing material."

3. Application of section 23(5) of the Act

- 3.1. Section 23(5) of the Act specifies that an insurer and controlling company must reference the fact that such an insurer or controlling company is licensed in terms of the Act in all business documentation, advertisements and marketing material. Section 23(5) of the Act is not prescriptive on the exact naming convention.
- 3.2. The lack of a prescriptive naming convention in terms of section 23(5) of the Act permits licensed insurers and controlling companies a degree of flexibility in referencing their licensed status. The Authorities however recognise the need for a degree of uniformity amongst insurers in referencing the type of licence held. This uniformity in the naming convention will ensure a level of consistency across all licensed insurers and controlling companies, which will support certainty and a common understanding for financial customers which is in the public interest.
- 3.3. The Authorities are of the view that a level of uniform consistency in naming convention terminology can be attained simply with specific definitions as per the Act. These definitions are accurately referenced in the Act and related to the type of insurer (e.g. microinsurer, insurer or reinsurer) and the particular insurance business being conducted (e.g. life or non-life), which accords with the licence certificate issued by the PA.

4. Applying a Uniform Naming Convention

- 4.1. The Authorities, in response to queries from the industry in this regard, agreed on a preference for a naming convention as per the following examples for insurers and controlling companies:

In respect of insurers:

"Insurer licensed to conduct life insurance business"
"Insurer licensed to conduct non-life insurance business" or
"Reinsurer licensed to conduct life insurance business"
"Reinsurer licensed to conduct non-life insurance business"
"Reinsurer licensed to conduct composite insurance business or
"Microinsurer licensed to conduct life microinsurance business"
"Microinsurer licensed to conduct non-life microinsurance business"
"Microinsurer licensed to conduct composite microinsurance business"

In respect of controlling companies:

"XYZ Limited a licensed controlling company "

“XYZ Limited a licensed insurer conducting life/non-life insurance business and a licensed controlling company”

- 4.2 Although reflecting the preference of the Authorities, it is not mandatory for an insurer or controlling company to apply this preferred naming convention in discharging its obligations under section 23(5) and any permutation thereof would not be regarded as a contravention of the Act.

5. The use of Legacy Material

- 5.1. The Authorities have considered the impact of section 23(5) on legacy business documentation, advertisements and other marketing material. Schedule 3 of the Act specifically provided for a transitional period in that section 23(5)(a) of the Act only came into effect six months after the date on which a previously registered insurer's registration was converted to a licence under the Act. This time was afforded for an insurer to phase out any legacy material in its business documentation, advertisements and other marketing material that still referenced its status as registered under the LTIA and STIA.
- 5.2. As the conversion of licences under the Act was concluded more than a year ago, all insurers should now be compliant with Section 23(5) of the Act, and no business documentation, advertisements and other marketing material referring to the status as a registered insurer should be in use. A “grandfathering” arrangement is not catered for in terms of Schedule 3 of the Act.

6. Enquiries

- 6.1 For further information about this Communication, please contact the PA via email at PA-Standards@resbank.co.za or the relevant analyst/relationship manager at the FSCA responsible for the insurer directing the query.



FINANCIAL SECTOR CONDUCT AUTHORITY

DATE: 15.12.2021



PRUDENTIAL AUTHORITY

DATE: 2021-12-17