

3 April 2018

Insurance Law Newsflash

The proposed amendments to the regulations of the Long-term Insurance Act, 1998 and Short-term Insurance Act, 1998 are out for comment with submissions due on 23 April 2018.

It is envisaged that the proposed regulations will come into effect on 1 July 2018, which is in line with the proposed effective date of the Insurance Act, 2017 (Insurance Act).

The Insurance Act, will repeal all the prudential sections of both the Long-term Insurance Act, 1998 (LTIA) and the Short-term Insurance Act, 1998 (STIA).

Keeping in line with the move to a risk-based solvency model for insurers, the requirement for intermediaries to have a bank guarantee of a guarantee issued by the Intermediaries Guarantee Facility (IGF) has been done away with.

The proposed regulations stipulate the following requirements for an independent intermediary to collect premiums on behalf of an insurer:

1. A separate bank account or accounts must be opened to receive and remit premium attributable to the relevant insurer.
2. Where premium is received in cash, it must be deposited into the designated premium bank account within two business days of receipt of the cash premium.
3. Where premium is received in cash, the independent intermediary must as practically as possible after receiving the premium provide the payer with a written receipt, which is required to provide stipulated information.
4. Independent intermediaries must within 15 days after the end of the month pay over to the insurer the premium received during that month. The independent intermediary may reduce the premium amount with amounts such as refunds and commission, but subject to the authorisation of the insurer.

An independent intermediary that collects premium will be required to furnish the insurer on a monthly basis with returns.

The insurer will in effect need to perform the same test as any outsource

arrangement when mandating an independent intermediary to collect premiums on its behalf and can impose any further requirements to manage its risks.

So, although there will be a cost saving for independent intermediaries in obtaining a bank guarantee or a guarantee from the IGF, they will be required to maintain and manage separate bank accounts for the collection of premiums. There may be an additional compliance burden where insurers opt to impose stricter requirements for the collection of premiums.

Some of the other proposed amendments relate to:

1. Alignment of the classes of insurance business across the LTIA and STIA with the Insurance Act, this is important especially when insurers will be required to re-license under the Insurance Act.
2. In the LTIA, alignment of commissions to the new classes of insurance.
3. Alignment of commissions on micro-insurance and assistance funeral insurance, to promote financial inclusion and encourage entry of new providers into the market.
4. Amendments to the binder regulations to allow insurers to meet their procurement obligations under the Financial Sector Code issued in terms of the Broad-Based Black Economic Empowerment Act, 2003.

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