

The new policyholder protection rules - Alert 2

14 March 2018
Insurance Alert

There is no need to panic in respect of the implementation and compliance with the first tranche of rules as these came into effect on publication of the notice on **15 December 2017**. Remember, the PPRs apply to natural persons and juristic persons whose asset value or annual turnover is less than ZAR2 million.

<p>Rules 1.1- 1.4 and 1.10 (Requirement for the fair treatment of policyholders)</p>	<p>These rules relate to treating customers fairly (TCF) and most insurers should have a TFC policy in place.</p>
<p>Rule 2 (Product design)</p>	<p>This rule relates to the product design requirements to which insurers need to adhere to ensure that products provided meet the needs of customers. Does this sound familiar? Again, this is closely linked to TCF.</p>
<p>Rule 3 (Credit life and consumer credit insurance)</p>	<p>This rule relates to mandatory credit life insurance. This rule is consistent with the Credit Life Regulations that came into effect on 9 August 2017. The Credit Life Regulations only affect credit agreements entered into on or after the commencement date. Therefore, there is no doubt that this is something that has already been considered in your business.</p> <p><i>Note: In terms of the proposed amendments to the PPRs, this rule will be amended for the short-term PPRs to align to the Insurance Act, 2017 (Insurance Act). In terms of the Insurance Act, "credit life insurance" will only be underwritten by life insurers. Non-life insurers will only be able to underwrite consumer credit insurance.</i></p>

<p>Rule 5 (Negative option selection of policy terms or conditions)</p>	<p>This rule relates to negative option selection of policy terms or conditions. Good business practice means that, as a business, you would not be selling something to someone that they don't know about or to those who don't respond. This is once again linked to TCF.</p>
<p>Rules 6.1 and 6.5 (Determining premiums and excesses)</p>	<p>These rules relate to the determining of premiums charged to policyholders, which need to be reasonable. This rule is linked to rule 2 and TCF. In terms of short-term policies, this rule applies to excess payable by policyholders.</p>
<p>Rules 7.1 (a) to (e) and 7.2 (Void provisions)</p>	<p>This rule relates to void provisions. As an insurance business, you have already had to comply with void provisions under the PPRs of 2010.</p> <p><i>Note: in terms of the proposed amendments to the PPRs, Rule 7.1 (a) to (e) and 7.2 require immediate compliance. Rule 7.1(f) to (i) and 7.3 will require compliance by 1 July 2018. This rule has been amended to incorporate sections of the Short-term Insurance Act, 1998 (STIA) and the Long-term Insurance Act, 1998 (LTIA) that will be repealed once the Insurance Act, 2017 comes into effect.</i></p>
<p>Rule 8 (Waiver of rights)</p>	<p>This rule deals with the waiver of rights; this relates to good business practice. Thus, as a business you already have to deal with this as part of good business practice.</p>
<p>Rule 9 (Signing of blank or uncompleted forms)</p>	<p>This rule relates to the signing of blank or uncompleted forms. As an insurance business, you have already been required to comply with this rule under the PPRs of 2010.</p>

<p>Rules 12.1 – 12.3 (Except for 12.2.1 and 12.2.2 insofar as they relate to existing intermediary agreements) (Arrangements with intermediaries and other persons)</p>	<p>This rule relates to arrangements with intermediaries and other persons. Insurers must have an intermediary agreement with an intermediary. This, however, does not prohibit an insurer from appointing an agent to facilitate the process of entering into such an agreement. The insurer is further required to ensure that they only enter into such an agreement with an intermediary who has the requisite product knowledge when offering a product of the insurer and the insurer must also provide the intermediary with a copy of the agreement. However, in practice, insurers already do due diligence on their intermediaries prior to commencing any commercial relationship.</p>
<p>Rule 15 (Periods of grace) Short-term insurers only</p>	<p>Short-term insurers have been complying with this rule already. <i>Note: In terms of the proposed amendments, long-term insurers have different compliance dates for Rule 15, as Rule 15 deals with premium reviews.</i></p>

Note:

On 2 March 2018 the Financial Services Board published for comment proposed amendments to the PPRs. Comments are required by **13 April 2018** and the amended rules are envisaged to come into effect on **1 July 2018**, which is also the envisaged date of the commencement of the Insurance Act.

In terms of the short-term and long-term proposed amendments, **Rule 2A** has been inserted to deal with micro-insurance and funeral policy product standards. Micro-insurance policies will therefore be required to comply with **Rule 2A** with effect from 1 July 2018.

In addition, proposed **Rule 21** (long-term) and **Rule 20** (short-term), which are new rules and the current provisions contained in section 59 of the LTIA and current section 53 of the STIA that will be repealed by the Insurance Act, 2017, will come into effect on **1 July 2018**.

Proposed **Rule 15A** (long-term), the current provision of section 52 of the LTIA that will be repealed by the Insurance Act, will come into effect on **1 July 2018**. This rule deals with premium payments.

If you're unsure how these changes may affect your business or need any other assistance, please contact us.

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