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To provide for the registration of long-term insurers; for the control of certain activities of long-term insurers and intermediaries, and for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Introductory provisions
1. Definitions

1) In this Act unless the context otherwise indicates—

"Advisory Committee"
[Definition deleted by section 67(a) of Act No. 45 of 2013];

"assistant policy" means a life policy in respect of which the aggregate of—

a) the value of the policy benefits, other than an annuity, to be provided (not taking into account any bonuses to be determined in the discretion of the long-term insurer); and

b) the amount of the premium in return for which an annuity is to be provided,

c) does not exceed R10 000, or another maximum amount prescribed by the Minister, and includes a reinsurance policy in respect of such a policy;

"Auditing Profession Act" means the Auditing Profession Act, 2005 (Act No. 26 of 2005);

"auditor" means an auditor registered in terms of the Auditing Profession Act, and appointed in terms of section 19(1) or 21(1)(a) of this Act;

"Board" means the Financial Services Board established by section 2 of the Financial Services Board Act;

"capital adequacy requirement" means an amount which a long-term insurer is required to have in terms of paragraph 2 of
"Companies Act" means the Companies Act, 2008 (Act No. 71 of 2008); [Definition amended by section 67(b) of Act No. 45 of 2013]

"company" means a company incorporated in accordance with, and registered under, the Companies Act, or deemed to have been so incorporated and registered;

"Court" means the High Court of South Africa;

"director" includes a person who is a member or alternate member of a body performing, in relation to an entity that is not a company, functions similar to those performed by a board of directors in relation to a company;

"disability event" means the event of the functional ability of the mind or body of a person or an unborn becoming impaired;

"disability policy" means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits upon a disability event; and includes a reinsurance policy in respect of such a contract;

"fair value" has the meaning assigned to it in financial reporting standards;

"financial reporting standards" has the meaning assigned to it in section 1 of the Companies Act; [Definition amended by section 67(c) of Act No. 45 of 2013]

"financial statements" has the meaning assigned to it in section 1 of the Companies Act; [Definition amended by section 67(c) of Act No. 45 of 2013]

"Financial Services Board Act" means the Financial Services Board Act, 1990 (Act No. 97 of 1990);

"fit and proper requirements" includes such qualities of competence, integrity and financial standing as may be prescribed by the Registrar by notice in the Gazette; [Definition inserted by section 67(d) of Act No. 45 of 2013]

"fund" means—
   a) a friendly society as defined in section 1 of the Friendly Societies Act, 1956
(Act No. 25 of 1956);

b) a pension fund organisation as defined in section 1 of the Pension Funds Act, 1956 (Act No. 24 of 1956);

c) a medical scheme as defined in section 1 of the Medical Schemes Act, 1967 (Act No. 72 of 1967); and

d) any other person, arrangement or business prescribed by the Registrar;

“fund policy”
means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits for the purpose of funding in whole or in part the liability of a fund to provide benefits to its members in terms of its rules, other than such a contract relating exclusively to a particular member of the fund or to the surviving spouse, children, dependants or nominees of a particular member of the fund; and includes a reinsurance of policy in respect of such a contract;

“health event”
means an event relating to the health of the mind or body of a person or an unborn;

“health policy”
means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits upon a health event, and includes a reinsurance policy in respect of such a contract—

a) excluding any contract—

i) that provides for the conducting of the business of a medical scheme referred to in section 1(1) of the Medical Schemes Act; or

ii) of which the policyholder is a medical scheme registered under the Medical Schemes Act, and which contract—

aa) relates to a particular member of the scheme or to the beneficiaries of that member; and

bb) is entered into by the medical scheme to fund in whole or in part its liability to the member or the beneficiaries of the member referred to in subparagraph (aa) in terms of its rules; but

b) specifically including, notwithstanding paragraph (a)(i), any contracts identified by the Minister by regulation under section 72(2A) as a health policy;

“holding company”
means a holding company as defined in section 1 of the Companies Act;

“life event”
means the event of the life of a person or an unborn—

a) having begun;

b) continuing;

c) having continued for a period; or

d) having ended;

“life insured”
means the person or unborn to whose life, or to the functional ability or health of whose mind or body, a long-term policy relates;
"life policy" means a contract in terms of which a person, in return for a premium, undertakes to—
   a) provide policy benefits upon, and exclusively as a result of a life event; or
   b) pay an annuity for a period;
   c) and includes a reinsurance policy in respect of such a contract;

"linked liabilities" means the liabilities of a long-term insurer in respect of linked policies;

"linked policy" means a long-term policy of which the amount of the policy benefits is not guaranteed by the long-term insurer and is to be determined solely by reference to the value of particular assets or categories of assets which are specified in the policy and are actually held by or on behalf of the insurer specifically for the purposes of the policy;

"long-term insurance business" means the business of providing or undertaking to provide policy benefits under long-term policies;

"long-term insurer" means a person registered or deemed to be registered as a long-term insurer under this Act;

"long-term policy" means an assistance policy, a disability policy, a fund policy, a health policy, a life policy or a sinking fund policy, or a contract comprising a combination of any of those policies; and includes a contract whereby any such contract is varied;

"managing executive" means the chief executive officer of a long-term insurer and every manager of that long-term insurer who reports directly to that chief executive officer;

"market-related policy" [deleted by the Insurance Laws Amendment Act, 2008 (Act No. 27 of 2008)]

"Medical Schemes Act" means the Medical Schemes Act, 1998 (Act No. 131 of 1998);

"Minister" means the Cabinet member responsible for finance;

"official web site" means a web site as defined in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002), set up by the Board; [Definition inserted by section 67(e) of Act No. 45 of 2013]

"policy benefits" means one or more sums of money, services or other benefits, including an annuity;
"policyholder" means the person entitled to be provided with the policy benefits under a long-term policy;

"premium" means the consideration given or to be given in return for an undertaking to provide policy benefits;

"prescribe" means to determine from time to time by notice on the official web site, unless notice in the Gazette is specifically required by this Act;
[Definition amended by section 67(f) of Act No. 45 of 2013]

"public company" means a public company as defined in section 1 of the Companies Act, and includes a state-owned company as defined in section 1 of that Act;
[Definition amended by section 67(g) of Act No. 45 of 2013]

"publish" means any direct or indirect communication transmitted by any medium, or any representation or reference written, inscribed, recorded, encoded upon or embedded within any medium, by means of which a person, other than the Registrar, seeks to bring any information to the attention of any other person, or all or part of the public;
[Definition inserted by section 67(h) of Act No. 45 of 2013]

"Registrar" means the person referred to in section 2;
[Definition amended by section 67(i) of Act No. 45 of 2013]

"regulation" means a regulation under section 72;

"reinsurance policy" means a reinsurance policy in respect of a long-term policy;

"repealed Act" means the Insurance Act, 1943 (Act No. 27 of 1943);

"sinking fund policy" means a contract, other than a life policy, in terms of which a person, in return for a premium, undertakes to provide one or more sums of money, on a fixed or determinable future date, as policy benefits; and includes a reinsurance policy in respect of such a contract;

"short-term insurer" means a person registered or deemed to be registered as a short-term insurer under the Short-term Insurance Act, 1998;

"statutory actuary"
means an actuary appointed in accordance with section 20(1) or 21(1)(b);

"subsidiary"
has the meaning determined in accordance with section 3 of the Companies Act;
[Definition amended by section 67(j) of Act No. 45 of 2013]

"this Act"
includes any regulation made, or matter prescribed under this Act;

"unborn"
means a human foetus conceived but not born;

"widely-held company"
[Definition deleted by section 67(k) of Act No. 45 of 2013]

2) For the purposes of entering into a long-term policy the life of an unborn shall be deemed to begin at conception.

I. Administration of Act

2. Registrar and Deputy Registrar of Long-term Insurance

(1) The person appointed as executive officer in terms of section 13 of the Financial Services Board Act is the Registrar of Long-Term Insurance and has the powers and duties provided for by or under this Act or any other law.

(2) The person appointed as deputy executive officer in terms of section 13 of the Financial Services Board Act is the Deputy Registrar of Long-term Insurance.

(3) The Deputy Registrar of Long-term Insurance exercises or carries out the powers and duties of the Registrar of Long-term Insurance to the extent that such powers have been delegated to the Deputy Registrar under section 20 of the Financial Services Board Act and to such extent that the Deputy Registrar has been authorised under section 20 of the Financial Services Board Act to perform such duties.

[Section 2 amended by sections 68 and 108 (a) of Act No. 45 of 2013]

3. General provisions concerning Registrar

1) An approval of, or a determination or decision by, or a notice to be given by or to, the Registrar, shall, without derogating from legal rules on the making known or the publication thereof, be valid only if it is in writing.

2) Whenever the approval of, or a determination or decision by, or the performance of any other act by the Registrar, is sought by a person under this Act or any other law,
application therefor shall be made in writing to the Registrar and the application shall—
a) be made in the form the Registrar requires; and
b) be accompanied by—
   i) the fees prescribed by the Registrar; and
   ii) the information or documents which the Registrar requires.

3) If a person with an interest in the matter is aggrieved by a determination made, decision taken or act performed in the exercise or carrying out of the powers or duties of the Registrar, that person may appeal to the board of appeal established by section 26 of the Financial Services Board Act, with the necessary changes, in accordance with that section.

4) A person may, upon payment of the fees prescribed by the Registrar, inspect only those documents prescribed by the Registrar, which are held by the Registrar under this Act in relation to a long-term insurer or obtain a copy of or extract from any such document. [Subsection 4 amended by section 69 of Act No. 45 of 2013]

5) A document which purports to have been certified by the Registrar as a document held in the Registrar's office or to be a copy of such a document, shall be prima facie proof of the content of such a document or copy, and shall be admissible in evidence in any proceedings.

4. Special provisions concerning Registrar and his or her powers

1) When anything is required or permitted to be done under this Act within a particular period, the Registrar may, before the expiry of that period, extend it.

2) The Registrar may by notice direct a long-term insurer to furnish the Registrar, within a specified period, with specified information or documents required by the Registrar for the purposes of this Act.

3) [Subsection 3 deleted by section 70(a) of Act No. 45 of 2013]

4) a) The Registrar may, in order to ensure compliance with or to prevent a contravention of this Act, issue a directive to any person or persons to whom the provisions of this Act apply.
b) A directive issued in terms of paragraph (a) may—
   i) apply generally; or
   ii) be limited in its application to a particular person or kinds of persons, which may, for purposes of this subsection, be defined either in relation to categories, types or in any other manner.
c) A directive issued in terms of paragraph (a) takes effect on the date determined by the Registrar in the directive.
d) In the event of a departure from section 3(2) or 4(1), (2) or (3) of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), the directive must include a statement to that effect and the reasons for such departure.
e) The Registrar may amend or revoke any issued directives.
f) The Registrar must, where a directive is issued to ensure the protection of the public
in general, publish the directive on the official web site and any other media that the Registrar deems appropriate, in order to ensure that the public may easily and reliably access the directive.

(Subparagraph (f) amended by section 70(b) of Act No. 45 of 2013)

5) a) If a person contravened or is contravening section 7(1)(a) of this Act, the Registrar may—
   i) by notice direct that person to make arrangements satisfactory to the Registrar to discharge all or any part of the obligations under long-term policies already entered into by that person; or
   ii) apply to the Court for the sequestration or liquidation of that person, whether he, she or it is solvent or not, in accordance with—
       aa) the Insolvency Act, 1936 (Act No. 24 of 1936);
       bb) the Companies Act;
       cc) the Close Corporations Act, 1984 (Act No. 69 of 1984); or
       dd) the law under which that person is incorporated, as the case may be.

b) In deciding an application contemplated in paragraph (a)(ii), the Court—
   i) may take into account whether the sequestration or liquidation of the person concerned would be in the interests of the policyholders concerned;
   ii) may make an order concerning the manner in which claims maybe proven by policyholders; and
   iii) shall (if necessary) appoint as trustee or liquidator a person nominated by the Registrar.

6) (Subsection 6 deleted by section 70(c) of Act No. 45 of 2013)

7) The Registrar may—
   a) determine that a policy or policies shall form part of a particular class of policies defined in section 1 of this Act or in section 1 of the Short-term Insurance Act, 1997, if a long-term insurer has not classified that policy or policies correctly into the appropriate class, and when the Registrar so determines, the policy or policies concerned shall be deemed to form part of the class of policies so determined for the purposes of, and subject to, the provisions of the said Act relating to that class of policies; or
   b) upon application of a long-term insurer, determine that a policy or policies forming part of any class of policies defined in section 1 of this Act or in section 1 of the Short-term Insurance Act, 1997, shall form part of a different class of policies defined in the said section 1 of this Act, and when the Registrar so determines, that policy or policies shall for the purposes of this Act be deemed to form part of the class of policies so determined and it or they shall—
      i) be subject to all the provisions of this Act relating to that class of policies;
      ii) be subject to the conditions determined by the Registrar; and
      iii) notwithstanding paragraph (a), be exempted from the provisions of the regulations to the extent determined by the Registrar:

Provided that the Registrar shall not make a determination under this subsection if the Registrar is satisfied that the determination will be prejudicial to any person or will defeat any object of this Act.
(a) The Registrar may—
   (i) conduct an on-site visit under Chapter 1A of the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001); or
   (ii) instruct an inspector to conduct an inspection under the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998).

(b) After an on-site visit or inspection has been carried out in terms of paragraph (a), the Registrar may, in accordance with section 4(2), direct the person concerned to take any steps, to refrain from performing or continuing to perform any act or to terminate or remedy any contravention of or failure to comply with any provision of this Act: Provided that the registrar may not make an order contemplated in section 6D(2)(b) of the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001).

[Subsection 8 inserted by section 70(d) of Act No. 45 of 2013]

5. Annual report

1) The Registrar shall submit to the Minister a report on the Registrar’s activities under this Act during each year ending 31 December, and shall furnish any additional information relating to anything done by the Registrar under this Act that the Minister may require.

2) A copy of the report submitted to the Minister in terms of subsection (1) shall be tabled in Parliament within 30 days after receipt of the report if Parliament is then in session or, if Parliament is not then in session, within 30 days after the commencement of its next ensuing session.

6. Advisory Committee on Long-term Insurance (REPEALED)

[Section 6 repealed by sections 71 of Act No. 45 of 2013]

II. Registration of long-term insurers

7. Registration required in order to carry on long-term insurance business

1) No person shall carry on any kind of long-term insurance business, unless that person—
   a) is registered or deemed to be registered as a long-term insurer, and is authorised to carry on the kind of long-term insurance business concerned, under this Act; and
   b) carries on that business in accordance with this Act.

2) Subsection (1) shall not apply to—
   a) a pension fund organisation registered under the Pension Funds Act, 1956 (Act No. 24 of 1956), if and in so far as it acts in accordance with that Act;
   b) a friendly society registered under the Friendly Societies Act, 1956 (Act No.25 of 1956), or exempted under section 3(2) of that Act from the requirement to be so
registered, if and in so far as it enters into long-term policies in respect of any of which—
   i) the value of the policy benefits, other than an annuity, to be provided; or
   ii) the amount of the premium in return for which an annuity is to be provided, does not exceed R5 000 per member or another maximum amount prescribed by the Minister;
   c) a fund established in terms of an agreement referred to in section 23 of the Labour Relations Act, 1995 (Act No. 66 of 1995), if and in so far as it acts in accordance with the provisions of such agreement;
   d) a medical scheme registered under the Medical Schemes Act, if and in so far as it acts in accordance with that Act;
   e) the Land and Agricultural Bank of South Africa referred to in section 3 of the Land Bank Act, 1944 (Act No. 13 of 1944), if and in so far as it acts in accordance with that Act;
   f) a short-term insurer. if and in so far as it enters into a policy which it is entitled to enter into by virtue of its registration as a short-term insurer; or
   g) an agricultural co-operative registered under the Co-operatives Act 2005 (Act No. 14 of 2005), or allowed to continue to operate in terms of section 97 of that Act, if and in so far as it conducts long-term insurance business as part of its main objectives, and provides benefits, the amount of which is not guaranteed and in respect of which its liability is limited to the amount standing to the credit of a fund specially maintained for that purpose.

3) For the purposes of this section a person shall, in the absence of evidence to the contrary, be deemed to be carrying on long-term insurance business in the Republic, if that person performs any act in the Republic—
   a) the object or result of which is that another person will enter into or enters into, or offers to enter into or to vary, a long-term policy, other than a reinsurance policy, in terms of which the first-mentioned person undertakes to provide policy benefits to the other person; or
   b) in relation to a long-term policy, other than a reinsurance policy, in terms of which that person has undertaken to provide policy benefits, and which act is aimed at—
      i) maintaining, servicing or surrendering, or otherwise dealing with, the long-term policy;
      ii) collecting or accounting for premiums payable under the long-term policy, or
      iii) receiving or submitting of, or assisting or otherwise dealing with the settlement of, a claim under the long-term policy.

8. Prohibition on use of certain words, or performance of certain acts, by certain persons

1) No person shall—
   a) subject to section 8(1)(a) of the Short-term Insurance Act, 1998, without the approval of the Registrar apply to his, her or its business or undertaking a name or description which includes the word "insure", "assure or "underwrite" or any derivative thereof, unless such person is a long-term insurer;
   [Subparagraph (a) amended by section 72(a) of Act No. 45 of 2013]
   b) perform any act which indicates that he, she or it carries on or is authorised to carry
on long-term insurance business, unless he, she or it is a long-term insurer
authorised to carry on that business.

c) publish any advertisement, brochure or similar communication which relates to the
business of a long-term insurer, or to a long-term policy, and which is misleading or
contrary to the public interest or contains an incorrect statement of fact; or

[Subparagraph (c) inserted by section 72(b) of Act No. 45 of 2013]

d) publish any advertisement, brochure or similar communication which relates to a
long-term policy that does not prominently include the name of the long-term
insurer underwriting the long-term policy.

[Subparagraph (d) inserted by section 72(b) of Act No. 45 of 2013]

2) No long-term insurer shall change its name, or a translation, shortened form or derivative
thereof, without the prior approval of the Registrar.

3) No person shall perform any act the object of which is or which results in—
a) another person entering into or offering to enter into a long-term policy, other than
a reinsurance policy, to which a long-term insurer is not a party; or

b) i) the surrendering of, or collecting of or accounting for premiums payable
under;
ii) the receiving or submitting of, or assisting or otherwise dealing with, the
settlement of a claim under; or
iii) the maintaining, servicing or otherwise dealing with,
a long-term policy, other than a reinsurance policy, to which a long-term insurer is
not a party, without the consent of the Registrar, given either generally or in a
particular case.

9. Application for registration

1) A person who wishes to carry on long-term insurance business shall apply to the Registrar
for registration as a long-term Insurer.

2) Subject to subsection (3) the Registrar—
a) may grant an application made in terms of subsection (1) on such of the conditions
contemplated in section 10 as the Registrar may determine; and

b) shall, if the Registrar grants such application, register the person concerned as a
long-term insurer and issue to that person a certificate of registration, in such form
as may be prescribed by the Registrar, authorising that person to carry on the long-
term insurance business concerned and specifying the conditions contemplated in
paragraph (a).

3) An application referred to in subsection (1) shall not be granted by the Registrar—
a) unless the applicant—
i) is a public company and has the carrying on of long-term insurance business
as its main object; or
ii) is incorporated without a share capital under a law providing specifically for
the constitution of a person to carry on long-term insurance business as its
main object;
b) if—
   i) the applicant does not have the financial resources, organisation or
      management that is necessary and adequate for the carrying on of the
      business concerned;
   ii) any person who is, or will, from the date of proposed registration, be a
      director or managing executive of the applicant is not fit and proper to hold
      the office concerned;
   iii) the direct or indirect control of the applicant by another person, whether by
      virtue of shareholding, voting power, the power to appoint directors, or in any
      other manner, will be contrary to the interests of policyholders;
   iv) the applicant is not, or will not be, able to comply with this Act; or
   v) the registration is contrary to the public interest;

c) if the proposed name of the applicant, or a translation, shortened form or derivative
   thereof, is unacceptable because it—
   i) is identical to that of another long-term insurer or a short-term insurer;
   ii) so closely resembles that of another long-term insurer or a short-term insurer
      that the one is likely to be mistaken for the other;
   iii) identical to that under which another long-term insurer or a short-term
      insurer was previously registered and reasonable mounds exist for objection
      to its use by the applicant concerned; or
   iv) is misleading or undesirable,

unless the applicant has undertaken to adopt, within such period as the Registrar may
determine, another name which is acceptable to the Registrar.

10. Conditions of registration

The conditions contemplated in section 9(2)(a) may include conditions—
   a) authorising the long-term insurer to enter into only certain long-term policies
      determined by the Registrar;
   b) authorising the long-term insurer to enter into long-term policies other than certain
      long-term policies determined by the Registrar;
   c) authorising the long-term insurer to enter into certain long-term policies
      determined by the Registrar only if those policies contain, or do not contain,
      particular terms or conditions determined by the Registrar;
   d) limiting the amount or value of the policy benefits to be provided by the long-term
      insurer under certain long-term policies determined by the Registrar to an amount
      or value determined by the Registrar;
   e) limiting the amount of the premiums that the long-term insurer may contract to
      receive, during a period determined by the Registrar, in respect of all or certain
      long-term policies determined by the Registrar that may be entered into by that
      long term insurer during that period;
   f) requiring the long-term insurer to enter into reinsurance policies in terms of which
      that long-term insurer reinsures at least a portion determined by the Registrar of
      the liabilities incurred by it in terms of all or certain long-term policies determined
      by the Registrar that may be entered into by that long-term insurer during a period
      determined by the Registrar,
   g) requiring that the provisions of the Memorandum of Incorporation, or equivalent
      constitution, of the long-term insurer must be suitable to enable it to carry on long-
term insurance business; or

[Paragraph (g) amended by section 73 of Act No. 45 of 2013]

h) reasonably necessary to ensure that the long-term insurance business concerned is carried on soundly in compliance with section 29(1), and different conditions may be determined in respect of different long-term insurers.

11. Variation of registration conditions

1) The Registrar may—
   a) upon application of a long-term insurer and having regard, with the necessary changes, to section 9(3)(b);
   b) when acting in accordance with section 12(2) or (3) or when giving an authorisation in accordance with section 35(2)(a) in relation to a long-term insurer; or
   c) if a long-term insurer has ceased to enter into certain long-term policies determined by the Registrar to an extent which no longer justifies its continued registration in respect of those policies, and the long-term insurer has been allowed at least 30 days in which to make representations in respect of the matter by notice to the long-term insurer vary a condition, subject to which the long-term insurer is registered or deemed to be registered, by amending or deleting it, or determine a new condition contemplated in section 10.

2) The Registrar shall, if a variation referred to in subsection (1) is effected, withdraw the certificate of registration issued in terms of section 9 and issue, as contemplated in that section, a new certificate of registration to the long-term insurer concerned.

12. Registrar may under certain circumstances prohibit long-term insurers from carrying on business

1) If a long-term insurer—
   a) has not furnished all information which is material to an application made to the Registrar under this Act or has furnished information which is false;
   b) has made a material misrepresentation to members of the public in connection with the long-term insurance business carried on by it;
   (bA) no longer meets the conditions under which it was registered;
   (bB) has failed to comply with any other condition imposed under this Act;
   (bC) has failed to comply with any directive issued under this Act;
   (bD) is in the opinion of the Registrar not managed or owned by persons who are fit and proper; or not managed in accordance with the governance and risk management framework prescribed by the Registrar in the Gazette;
   (bE) has contravened or failed to comply with a provision of this Act; or
   c) were it then to apply for registration in terms of section 9, would not be able to satisfy the Registrar as to the matters referred to in section 9(3), the Registrar may give notice to the long-term insurer of the Registrar’s intention, and of the reasons therefor, to prohibit that long-term insurer, with effect from a date specified in the notice, from carrying on the long-term insurance business specified in that notice.

[Subsection 1 amended by section 74(a), (b) and (c) of Act No. 45 of 2013]
2) When the Registrar has given notice to a long-term insurer in accordance with subsection (1), and has allowed that insurer a reasonable period in which to make representations to the Registrar in respect of the matter, the Registrar may, by notice to the long-term insurer—
   a) withdraw the first-mentioned notice;
   b) act in accordance with section 11; or
   c) prohibit the long-term insurer from carrying on such long-term insurance business as the Registrar may specify in the notice, and which has been specified in the first-mentioned notice.

[Subsection 2 amended by section 74(d) and (e) of Act No. 45 of 2013]

3) When the Registrar has, in accordance with subsection (2), prohibited a long-term insurer from carrying on certain long-term insurance business, the Registrar may thereafter—
   a) withdraw the prohibition by notice to the long-term insurer;
   b) act in accordance with section 11(1) and thereupon, by notice to the long-term insurer, withdraw the prohibition and authorise the long-term insurer to carry on the long-term insurance business, subject to the conditions determined by the Registrar, specified in the new certificate of registration referred to in section 11(2); or
   c) act in accordance with section 13(2)(c), 41(2) or 42(2), according to whichever provision the Registrar deems most appropriate in the circumstances and in the interests of the policyholders of the long-term insurer.

13. Termination of registration

1) If a long-term insurer fails to commence the carrying on of its long-term insurance business within a reasonable period after being registered to do so, and if, after allowing that insurer at least 30 days in which to make representations in respect of the matter, the Registrar is satisfied that the long-term insurer will not commence the carrying on of such business within a reasonable period thereafter, the Registrar shall, by notice to the long-term insurer, cancel its registration.

2) The Registrar shall—
   a) if a long-term insurer has ceased to enter into long-term policies to an extent which no longer justifies its continued registration as a long-term insurer and, after allowing that insurer at least 30 days in which to make representations in respect of the matter, the Registrar is satisfied that it will not resume the entering into of long-term policies to the required extent within a reasonable period thereafter;
   b) if a long-term insurer has notified the Registrar of its intention to cease to enter into any more long-term policies and has requested so in writing; or
   c) if the Registrar considers it appropriate to act so in accordance with section 12(3)(c),
      by notice direct the long-term insurer concerned, with effect from a date specified in the notice, not to enter into any more long-term policies and require it to make arrangements satisfactory to the Registrar to discharge its obligations under all long-term policies entered into before the specified date and, when the Registrar is satisfied that the long-term insurer concerned no longer has any obligations under any such policy, shall, by

notice to the long-term insurer and on the official web site, cancel its registration.  
[Subsection 2 amended by section 75(a) of Act No. 45 of 2013]

3) When all of the long-term insurance business of a long-term insurer has been—
   a) discontinued as a result of its amalgamation with, or its transfer to, another long-
      term insurer as contemplated in Part V; or
   b) wound up as contemplated in Part VI,
      the Registrar shall by notice on the official web site cancel its registration.  
[Subsection 3 amended by section 75(b) of Act No. 45 of 2013]

14. Deregistration of long-term insurers as companies

For the purposes of section 82(3) of the Companies Act in relation to a long-term insurer, the reference to the Commission in that section shall be construed as a reference to the Commission acting in concurrence with the Registrar.  
[Section 14 amended by section 76 of Act No. 45 of 2013]

III. Business and administration of long-term insurers

15. Limitation on business

1) A long-term insurer shall not carry on such business, other than the long-term insurance business which it is authorised to carry on by virtue of its registration under section 9, as the Registrar has prohibited in relation to—
   a) a particular long-term insurer; or
   b) long-term insurers generally.

2) A long-term insurer shall not carry on such business as the Registrar may determine, other than the long-term insurance business which it is authorised to carry on by virtue of its registration under section 9, otherwise than in accordance with and subject to the limitations and conditions which the Registrar may determine in relation to—
   a) a particular long-term insurer; or
   b) long-term insurers generally.

3) The Registrar may only impose a prohibition or determine a limitation and a condition under subsection (1) or (2) by notice on the official web site—
   a) if it is in the interests of the policyholders of a particular long-term insurer, or long-
      term insurers in general, to act so;
   b) after giving at least 30 days' notice of the Registrar's intention to act so in the case of—
      i) a particular long-term insurer, to that long-term insurer; or
      ii) long-term insurers generally, on the official web site; and
   c) after considering any representations received in respect of the matter.  
[Subsection 3 amended by section 77(a) and (b) of Act No. 45 of 2013]
4) A long-term insurer, other than an insurer carrying on reinsurance business only, shall not be a short-term insurer as defined in the Short-term Insurance Act, 1998.

15A. Reinsurers carrying on reinsurance business only, authorised to provide policy benefit

Notwithstanding sections 15(4) and 70, a person who is, by virtue of registration under this Act, authorised to carry on reinsurance business only may, subject to section 11, carry on the business of providing or undertaking to provide policy benefits in terms of a fund policy directly to any fund contemplated in the definition of ‘fund’ in section 1(1).

16. Head office and public officer

1) A long-term insurer shall—
   a) have its head office in the Republic;
   b) appoint a natural person who is permanently resident in the Republic as its public officer;
   c) notify the Registrar of the address of that head office and of the name of that public officer; and
   d) if the address of that head office changes, or if that public officer or the name of that public officer changes, notify the Registrar thereof within 30 days after such change.

2) The public officer shall, as far as it is in his or her power, ensure that the long-term insurer complies with this Act.

3) Process in any legal proceedings against a long-term insurer may be served at the head office of that insurer or, if no such office is in existence, by service upon the public officer or, if he or she cannot be found or if no person has been appointed as public officer, by service upon the Registrar, which shall be deemed to be service upon the long-term insurer.

17. Financial year

A long-term insurer may not change its financial year without the approval of the Registrar.

18. Notification of certain appointments, terminations and resignations

1) A long-term insurer shall notify the Registrar, in the form and of the information required by the Registrar, in respect of every director or managing executive appointed by it or
whose appointment has been terminated by it, or who has resigned, within 30 days after such appointment or termination or resignation, as the case may be, together with the reasons for any such termination or resignation.

2) Any such director or managing executive who resigns or whose appointment has been terminated by a long-term insurer shall, at the request of the Registrar, inform the Registrar in writing of any matter relating to the affairs of that insurer of which the director or managing executive became aware in the performance of his or her duties and which may prejudice the insurer’s ability to comply with this Act.

3) No information furnished by a director or managing executive in terms of subsection (2) may be used in any subsequent criminal proceedings against such director or managing executive.

19. Auditor

1) A long-term insurer shall at all times have one or more auditors appointed by it in accordance with the provisions of the Companies Act applicable to a public company. [Subsection 1 amended by section 78 of Act No. 45 of 2013]

2) No appointment of an auditor, other than a reappointment not involving a break in the continuity of the appointment, shall take effect unless it has been approved by the Registrar.

3) [Sub-section (3) deleted by the Insurance Laws Amendment Act, 2008 (Act No. 27 of 2008)]

4) If an auditor of a long-term insurer is a firm (as contemplated in the Auditing Profession Act), the Registrar’s last approval of the Registrar for the appointment of that firm as auditor shall not lapse by reason of a change in the membership of the firm if at least half of the members, after the change, were members of the firm when the appointment of the firm was last approved by the Registrar.

5) Notwithstanding anything to the contrary in any law contained, the auditor of a long-term insurer shall—
   a) whenever the auditor furnishes copies of a report or other document or particulars contemplated in section 45(1)(a) and 3(c) of the Auditing Profession Act, also furnish a copy thereof to the Registrar; and
   b) if the auditor’s appointment is terminated for any reason—
      i) submit to the Registrar a statement of what the auditor believes to be the reasons for that termination; and
      ii) if the auditor would, but for that termination, have had reason to submit a report contemplated in section 45(1)(a) and (3)(c) of the Auditing Profession Act, submit such a report to the Registrar; and
   c) inform the Registrar and the Board of Directors of the long-term insurer, without delay, in writing of any matter relating to the business of the long-term insurer of which the auditor becomes aware in the performance of the auditor’s functions as auditor and which, in the opinion of the auditor, constitutes a contravention of
section 29(1) or any other section of this Act or in future may prejudice the insurer's ability to comply with section 29(1) or any other section of this Act, which information must give a description of the matter and must include such other particulars as the auditor considers appropriate.

6) The furnishing, in good faith, by an auditor of a report or information in terms of this section shall not be deemed to constitute a contravention of a provision of a law or a breach of a provision of a code of professional conduct to which the auditor is subject.

b) The failure, in good faith, by an auditor to furnish a report or information in terms of this section shall not confer upon any person a right of action against the auditor which, but for that failure, that person would not have had.

7) The auditor of a long-term insurer must carry out the duties assigned to the auditor of a long-term insurer by this Act, the Act under which that insurer is incorporated and the Auditing Profession Act, and in addition to those duties must—

a) in relation to a statement forming part of the returns in respect of which the auditor is required to submit in terms of section 36, examine that statement or part thereof and satisfy himself, herself or itself that it is properly prepared so as to comply with the requirements of this Act and express an opinion as to whether the statement or part thereof, including any annexure thereto, has in all material respects been prepared in accordance with Chapter IV of the Auditing Profession Act; and

b) carry out the other duties prescribed by the Minister.

8) Without derogating from an auditor’s right to do so in respect of anything which is material to the carrying out of the auditor’s duties, an auditor shall not be required to examine or express an opinion in relation to a statement forming part of a return, report or certificate or to the particulars thereof, in respect of which a statutory actuary is required, in terms of this Act to make an examination, give an attestation or express an opinion.

9) An auditor may rely on the work performed by the statutory actuary in relation to the financial affairs of a long-term insurer, when the auditor expresses an opinion in relation to the financial affairs of that long-term insurer in terms of this Act or any other 4 law. subject to compliance with the prevailing auditing standards.

20. Statutory actuary

1) A long-term insurer shall from time to time appoint, and at all times have, an actuary.

2) A long-term insurer may appoint an alternate to act in the place of its statutory actuary during his or her absence for any reason.

3) No person other than a natural person who is permanently resident in the Republic, is a Fellow of the Actuarial Society of South Africa and has, as an actuary, appropriate practical experience relating to long-term insurance business, shall be appointed as a statutory actuary or his or her alternate.
4) No appointment of a statutory actuary or his or her alternate shall take effect unless it has been approved by the Registrar.

5) The statutory actuary of a long-term insurer shall—
   a) submit to the Registrar, if his or her appointment is for any reason terminated, a statement of what he or she believes to be the reasons for that termination; and
   b) without delay, report in writing to the board of directors of the long-term insurer any matter relating to the business of the long-term insurer of which he or she becomes aware in the performance of his or her functions as statutory actuary and which, in his or her opinion, constitutes a contravention of section 29(1) or any other section of this Act relating to the duties of the statutory actuary, or in future may prejudice the long-term insurer’s ability to comply with section 29(1) or any other section of this Act relating to the duties of the statutory actuary, which report must give a description of the matter and must include such other particulars as the statutory actuary considers appropriate: Provided that the report must be submitted without delay also to the Registrar where, in the opinion of the statutory actuary, the matter—
      aa) materially prejudices the insurer’s ability to comply with any of these sections;
      bb) does not materially prejudice the insurer’s ability to comply with these sections, but the statutory actuary is of the opinion that immediate remedial action must be taken by the long-term insurer; and
   ii) if steps to rectify the matter are not taken by the board of directors of the long-term insurer to the satisfaction of the statutory actuary within 30 days after the date of the report, without delay inform the Registrar.

6) a) The furnishing, in good faith, by a statutory actuary of a report or information in terms of subsection (5) shall not be deemed to constitute a contravention of a provision of a law or a breach of a provision of a code of professional conduct to which he or she is subject.
   b) The failure, in good faith, by a statutory actuary to furnish a report or information in terms of this section shall not confer upon any person a right of action against the statutory actuary which, but for that failure, that person would not have had.

7) In addition to duties assigned to the statutory actuary by any other law or a code of professional practice, the statutory actuary shall—
   a) in relation to a statement forming part of the returns in respect of which he or she is required to do so in terms of section 36, examine that statement and satisfy himself or herself that it is properly drawn up so as to comply with the requirements of this Act and attest or, as the case may be, express an opinion in connection with that statement; and
   b) carry out the other duties provided in this Act or prescribed by the Minister.

8) A statutory actuary shall—
   a) have the right of access at all times to the accounting records and other books and documents of the long-term insurer and be entitled to require from the directors or officers of that insurer the information, and explanations he or she deems necessary
for the carrying out of his or her duties;

b) be entitled to—
   i) attend and speak at a general meeting of the long-term insurer; and
   ii) receive the notices and other communications relating to a general meeting which a member of that long-term insurer is entitled to receive.

c) i) attend and be entitled to speak at any meeting of the board of directors of the long-term insurer on the business of the meeting which concerns the duties conferred on or assigned to him or her as statutory actuary by or under this Act and by any other law or code of professional practice; and
   ii) receive the notices and other communications relating to any meeting referred to in subparagraph (i) which a member of the board of directors is entitled to receive.

21. Appointment of auditor or statutory actuary by Registrar

1) If a long-term insurer for any reason fails to appoint—
   a) an auditor in terms of section 19(1), the Registrar may, notwithstanding section 90(1) and (2)(c) of the Companies Act, but subject to section 19 of this Act appoint an auditor for that long-term insurer;

[Subparagraph (a) amended by section 79 of Act No. 45 of 2013]

   b) an actuary in terms of section 20(1), the Registrar may, subject to section 20, appoint an actuary for that long-term insurer.

2) A person or firm appointed under subsection (1) as auditor or actuary of a long-term insurer shall be deemed to have been appointed by the long-term insurer in accordance with this Act.

22. Removal of appointees who are not fit and proper

1) The Registrar may by notice require a long-term insurer to terminate the appointment of a director, managing executive, public officer, auditor or statutory actuary of that long-term insurer, if the person or firm concerned is not fit and proper to hold the office concerned.

2) When the Registrar intends to act as contemplated in subsection (1), the Registrar shall give notice to the long-term insurer concerned, and, unless it is impracticable to do so, to the person or firm concerned, of the Registrar's intention and the reasons therefor, and the person or firm concerned shall thereupon cease to perform the functions of the office concerned pending the final outcome of any action under subsection (3).

3) When notice has been given to a long-term insurer in terms of subsection (2), that long-term insurer and the person or firm concerned may appeal to the board of appeal established by section 26 of the Financial Services Board Act, with the necessary changes, in accordance with that section, and any party shall have a right of appeal to the Court against the decision of that board of appeal as if it were a judgment of a lower court.
23. Audit committee

1) Despite section 94(2) of the Companies Act, the board of directors of a long-term insurer shall appoint an audit committee.

2) The majority of the members, including the chairperson of the audit committee, shall be persons who are not employees of the long-term insurer.

3) The functions of the audit committee in addition to the functions referred to in section 94(7) of the Companies Act, are—
   a) to assist the board of directors in its evaluation of the adequacy and efficiency of the internal control systems, accounting practices, information systems and auditing and actuarial valuation processes applied by the long-term insurer in the day-to-day management of its business;
   b) to facilitate and promote communication and liaison concerning the matters referred to in paragraph (a) or a related matter, between the board of directors and the managing executive, auditor, statutory actuary and internal audit staff of the long-term insurer;
   c) to recommend the introduction of measures which the committee believes may enhance the credibility and objectivity of financial statements and reports concerning the business of the long-term insurer; and
   d) to advise on a matter referred to the committee by the board of directors.

3A) The audit committee may appoint an advisor or request any employee of the long-term insurer to advise or assist it in the performance of the functions referred to in subsection (3).

4) If the appointment or composition of an audit committee is, in a particular case, inappropriate or impractical or would serve no useful purpose, the Registrar may, subject to such conditions as the Registrar may determine, exempt the long-term insurer concerned from the requirements of subsection (1).

24. Preference shares, debentures, share capital and share warrants

(1) Notwithstanding the provisions of the Companies Act, a long-term insurer shall not without the approval of the Registrar or otherwise than in accordance with the conditions that the Registrar determines—
   (a) issue any securities or change the capital structure of the company;
   (b) reduce its share capital;
   (c) allow its subsidiary to acquire directly or indirectly share in it in terms of section 48 of the Companies Act; or
   (d) conclude a transaction contemplated in section 44 of the Companies Act.
(2) The conditions referred to in subsection (1) may include a new or varied registration condition contemplated in section 10 or 11.

[Section 24 amended by section 81 of Act No. 45 of 2013]

25. Registration of shares in name of nominee

1) A long-term insurer shall not knowingly—
   a) allot or issue any of its shares to, or register any of its shares in the name of, a person other than the intended beneficial shareholder;
   b) register transfer of any of its shares to a person other than the intended beneficial shareholder, without the approval of the Registrar

2) Subsection (1) shall not apply to the allotment, issue or registration of the shares of a long-term insurer—
   a) to or in the name of a trustee or custodian of a collective investment scheme as defined in section 1 of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), or a representative of such trustee or custodian appointed in terms of section 68(6)(a) of the Collective Investment Schemes Control Act, 2002;
   b) to or in the name of an executor of the estate of a deceased shareholder of a company, a trustee of a shareholder whose estate has been sequestrated or an administrator, curator or guardian of a shareholder who is otherwise under disability;
   c) for a period of not more than six months, to or in the name of an authorised user or a nominee floated by an authorised user for the purposes contemplated in section 18(2)(l), read with section 36(1)(a), of the Securities Services Act, 2004 (Act No. 36 of 2004), or to or in the name of a company controlled by a long-term insurer or an employee of the long-term insurer, if it is necessary that the shares be so allotted, issued or registered in order to facilitate delivery to the purchaser or to protect the rights of the beneficiary in respect of those shares;
   d) to or in the name of a participant as defined in section 1 of the Securities Services Act, 2004, or of a nominee contemplated in section 36(1)(b), read with section 39(2)(q), of the Securities Services Act, 2004: Provided that the participant or nominee concerned is able on request, to disclose the name of the beneficial shareholder on whose behalf shares are held;
   e) to or in the name of another person prescribed by the Minister.

26. Limitation on control and certain shareholding or other interest in long-term insurers

1) Subject to this section, no person shall, directly or indirectly and without the prior approval of the Registrar, acquire or hold shares or any other financial interest in a long-term insurer or a related party of that long-term insurer which results in that person, directly or indirectly, alone or with a related party, exercising control over that long-term insurer.
2) No person shall, directly or indirectly and without the prior approval of the Registrar, acquire or hold shares in a long-term insurer or a related party of that long-term insurer if —
   (a) prior to the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the aggregate nominal value of those shares, by itself or together with the aggregate nominal value of the shares already owned by that person or by that person and related parties, will amount to 25 percent or more of the total nominal value of all the issued shares of the long-term insurer concerned;
   (b) after the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the total number of those shares, by itself or together with the total number of the shares already owned by that person or by that person and related parties, will amount to 25 percent or more of all the shares in a specific class of shares issued by the long-term insurer concerned.

3) The approval referred to in subsection (2)—
   a) may be given—
      i) subject to the aggregate nominal value of the shares or total number of shares in a specific class of shares or aggregate number of all the shares owned by the person concerned and his, her or its related party not exceeding such percentage as may be determined by the Registrar without further approval in terms of this section;
      ii) subject to such other conditions as the Registrar may determine;
   b) shall not be given if it would be contrary to—
      i) the public interest; or
      ii) the interests of the policyholders, or of persons who may become policyholders, of the long-term insurer; and
   c) may be refused if the person concerned, alone or with his, her or its related parties, has not already owned shares in the long-term insurer—
      i) of the aggregate nominal value or number of a specific class; and
      ii) for the minimum period, not exceeding 12 months, that the Registrar may determine.

4) If the Registrar is satisfied that the retention of a particular shareholding by a particular shareholder will be prejudicial to the long-term insurer, the Registrar may apply to the Court in whose area of jurisdiction the head office of the long-term insurer is situated for an order—
   a) compelling such shareholder to reduce, within a period determined by the Court, that shareholding to a shareholding not exceeding 25 per cent of—
      i) the total nominal value or number of all the issued shares of the long-term insurer; or
(ii) all the shares in a specific class of shares issued by the long-term insurer; and

b) limiting, with immediate effect, the voting rights that may be exercised by such shareholder by virtue of his, her or its shareholding to 15 per cent of the voting rights attached to all the issued shares of the long-term insurer.

[Subsection 4 amended by section 83(e) of Act No. 45 of 2013]

5) For the purposes of this section ‘related party’, in relation to—

a) a natural person, means—

i) a person who is recognised in law or the tenets of a religion as the spouse, life partner or civil union partner of that person;

ii) a child of that person, including a stepchild, adopted child and a child born out of wedlock;

(iiiA) a parent or stepparent of that person;

(iiiB) a person in respect of whom that person is recognised in law or appointed by a Court as the person legally responsible for managing the affairs of or meeting the regular care needs of the first-mentioned person;

(iiiC) a person who is the permanent life partner or spouse or civil union partner of a person referred to in subparagraphs (ii), (iiiA) and (iiiB);

(iiiD) a person who is in a commercial partnership with that person;

iii) another person who has entered into an agreement or arrangement with that natural person, relating to the acquisition, holding or disposal of, or the exercising of voting rights in respect of, shares in the long-term insurer concerned;

iv) a juristic person whose board of directors acts in accordance with his or her directions or instructions;

v) a trust controlled or administered by him or her;

b) a juristic person—

i) which is a company, means any subsidiary or holding company of that company, any other subsidiary of that holding company and any other company of which that holding company is a subsidiary;

ii) which is a close corporation registered under the Close Corporations Act, 1984 (Act No. 69 of 1984), means any member thereof as defined in section 1 of that Act;

iii) which is not a company or a close corporation, means another juristic person which would have been its subsidiary or holding company—

aa) had it been a company; or

bb) in the case where that other juristic person, too, is not a company, had both it and that other juristic person been a company;

iv) means any person in accordance with whose directions or instructions its board of directors acts;

v) means another juristic person whose board of directors acts in accordance with its directions or instructions;

vi) means a trust controlled or administered by it.

[Subsection 5 amended by section 83(f), (g) and (h) of Act No. 45 of 2013]

6) For the purposes of this section a person shall be deemed to exercise control over a long-term insurer if that person, alone or with related parties—

a) holds shares in the long-term insurer of which—

(i) the total nominal value represents 25 per cent or more of the nominal value of all the issued shares thereof;

(ii) the total number of shares represents 25 percent or more of all the shares in
a specific class of shares issued by that long-term insurer;
b) is directly or indirectly able to exercise or control the exercise of more than 15 percent of the voting rights associated with securities of that company, whether pursuant to a shareholder agreement or otherwise; or
c) has the right to appoint or elect, or control the appointment or election of, directors of that company who control more than 15 percent of the votes at a meeting of the board.

[Subsection 6 amended by section 83(i) of Act No. 45 of 2013]

27. Furnishing of information concerning shareholders

1) A long-term insurer shall, whenever required to do so by the Registrar, furnish the Registrar with a return, in the form and containing the particulars and information which the Registrar determines, in respect of its shareholders and of any person who directly or indirectly has the power to require those shareholders to exercise their rights as shareholders in the long-term insurer in accordance with such person’s directions or instructions.

2) A person in whose name shares in a long-term insurer are registered, or who wishes shares in a long-term insurer to be allotted or issued to such person or to be registered in such person’s name, and any person acting on behalf of such person, shall, upon the written request of the long-term insurer concerned, furnish it with the information it may require for the purposes of complying with section 25(1).

28. Effect of registration of shares contrary to Act

1) No person shall, despite any other law—
a) either personally or by proxy granted to another person, cast a vote attached to; or
b) receive a dividend payable in respect of,
a share in a long-term insurer or a related party of that long-term insurer allotted or issued to such first-mentioned person or registered in such person’s name contrary to this Act.
[Subsection 1 amended by section 84(a) and (b) of Act No. 45 of 2013]

2) The validity of a resolution passed by a long-term insurer or a related party of that long-term insurer shall not be affected solely by reason of a vote being cast contrary to subsection (1)(a).
[Subsection 2 amended by section 84(c) of Act No. 45 of 2013]

3) A dividend referred to in subsection (1)(b) shall be void.
IV. Financial arrangements

29. Maintenance of financially sound condition

1) A long-term insurer shall at all times maintain its business in a financially sound condition by—
   a) having assets;
   b) providing for its liabilities and capital adequacy requirement; and
   c) generally conducting its business.

so as to be in a position to meet its liabilities and capital adequacy requirement at all times.

2) A long-term insurer shall be deemed to have failed to comply with subsection (1) if—
   a) it does not have assets as required by section 30;
   b) it does not have in the Republic assets as required by section 31; or
   c) it has not made provision for the liabilities and the capital adequacy requirement referred to in sections 30 and 31 in accordance with the requirements of those sections and Schedule 3.

3) A long-term insurer which fails to comply with subsection (1) shall, without delay, notify the Registrar of the failure and furnish the reasons therefor.

4) A long-term insurer shall not declare or pay a dividend to its shareholders—
   a) while it fails or is likely to fail to comply with subsection (1);
   b) if the declaration or payment would result in it failing or being likely to fail to comply with subsection (1); or
   c) if, after the declaration or payment, the aggregate value of assets required by section 30 would be less than the aggregate value of its liabilities, issued share capital and non-distributable reserves.

5) A long-term insurer shall not declare or pay a dividend to its shareholders unless its statutory actuary has certified that the declaration or payment will not be contrary to subsection (4).

30. Assets

1) A long-term insurer shall—
   a) have assets the aggregate value of which, on any day, is not less than the aggregate value, on that day, of its liabilities and capital adequacy requirement; and;
   b) subject to section 32, have, in the Republic, assets, the aggregate value of which, on any day, is not less than the aggregate value, on that day, of those of its liabilities which are to be met in the Republic, and the capital adequacy requirement in respect of those liabilities,

when the values of those assets, liabilities and capital adequacy requirement are calculated as set out in Schedule 3.

2) [Sub-section 2 deleted by the Insurance Laws Amendment Act, 2008 (Act No. 27 of]
3. Kinds and spread of assets

1) Subject to section 32, a long-term insurer shall, in the Republic, have assets, other than assets in respect of linked liabilities—
   a) which have an aggregate value which, on any day, is not less than the aggregate value, on that day, of those of its liabilities which have to be met in the Republic, and its capital adequacy requirement, when the values of those assets are calculated by reference to their fair value and the values of those liabilities, other than the said linked liabilities, and capital adequacy requirement, are calculated by means of the method as set out in Schedule 3; and
   b) which are of the kinds specified in Schedule 1; and
   c) which have a fair value which, when expressed as a percentage of the aggregate value of its liabilities and capital adequacy requirement referred to in paragraph (a), does not exceed the percentage specified in the regulations in respect of particular kinds or categories of those assets, unless the Registrar otherwise approves either in advance or at any time after having received the notice referred to in section 29(3)—
      i) in a particular case;
      ii) for the specified period; and
      iii) subject to such conditions as the Registrar may determine.

2) Subject to subsection (1), the kinds of assets that a long-term insurer has, and the spread of those assets among different kinds, shall—
   a) to the satisfaction of the statutory actuary of the long-term insurer, be proper and suitable having regard to the nature of its various liabilities and the time when, the place where, and the manner in which, it is required, or expects to be required, to meet those liabilities; and
   b) to the extent so prescribed, comply with any general requirement prescribed by the Registrar for the appropriate matching of assets and liabilities.

3) Despite the requirement in subsection (1) that an asset must be valued at fair value, if the Registrar is satisfied that the value of an asset when calculated in accordance with financial reporting standards does not reflect a reasonable value for purposes of this Act, the Registrar may—
   a) appoint another person, at the cost of the insurer, to place a reasonable value on that asset, which value so determined will be deemed to be the value of the asset; or
   b) direct a long-term insurer to calculate the value in a manner determined by the Registrar, which value so calculated will be deemed to be the value of the asset.
32. Deeming provisions concerning assets

1) For the purposes of sections 30 and 31 —
   a) an asset of the kind specified in item 13, 16(2), (3) or (5) or 20(c) of the Table to Schedule 1, shall, subject to paragraph (b), be deemed to be in the Republic;
   b) if there is documentary evidence of the title of a long-term insurer to an asset, that asset shall be deemed not to be in the Republic unless the documentary evidence is in the Republic or is held outside the Republic in such a manner and subject to such conditions as the Registrar may determine; and
   c) an asset shall be deemed not to be held by a long-term insurer if it has been encumbered contrary to section 34(1)(a) in favour of another person, or if it is held by another person contrary to section 34(1)(b), unless the person in whose favour it is encumbered or the person holding that asset is —
      i) the Minister of Labour or the Director-General: Labour or any person acting on behalf of that Minister or Director-General in accordance with the laws of the Republic relating to compensation for occupational injuries and diseases;
      ii) the government of any country other than the Republic in which the long-term insurer carries on insurance business or intends to carry on such business, or any person acting on behalf of such government, if the long-term insurer has encumbered those assets in favour of, or transferred those assets into the name of, that government or that person in order to comply with the laws of that country relating to long-term insurance; or
      iii) another insurer and the encumbrance or transfer takes place in terms of a reinsurance policy.

2) If the assets which a long-term insurer holds in respect of its long-term insurance business in any of its policyholder funds include shares in its holding company —
   a) such shares shall, for the purposes of section 39(2) of the Companies Act, be deemed to be held by the long-term insurer in a representative capacity or as a trustee for the sole benefit of the owners of the policies for which the policyholder fund concerned exists, whether the holding company is incorporated in the Republic or not;
   b) such shares shall only be held by the long-term insurer with the prior approval of the Registrar and subject to such conditions as the Registrar may determine; and
   c) the long-term insurer shall not have the right to vote at meetings of the holding company or at meetings of any class of members thereof.

3) For the purposes of subsection (2) "policy holder fund" means a fund referred to in paragraph (a), (b) or (c) of section 29A(4) of the Income Tax Act, 1962 (Act No. 58 of 1962).
   [Subsection 3 amended by section 85 of Act No. 45 of 2013]

33. Liabilities

1) For the purposes of this Act, the liabilities of a long-term insurer shall include its contingent liabilities for policy benefits which have not become claimable, and which are specified in Schedule 3;
34. Prohibitions concerning assets and certain liabilities

1) A long-term insurer shall not—
   a) encumber its assets;
   b) allow its assets to be held by another person on its behalf;
   c) directly or indirectly borrow any asset;
   d) by means of suretyship or any other form of personal security, whether under a primary or accessory obligation, give security in relation to obligations between other persons,
   e) include in its assets shares held directly or indirectly in its holding company;
without the approval of the Registrar, given generally or in a particular case, and subject to such conditions as the Registrar may determine.

2) A long-term insurer shall not invest in derivatives other than for one or more of the following reasons:
   a) derivatives designated as an asset in respect of a linked policy;
   b) derivatives acquired out of or in respect of assets that are in excess of the assets required to meet the long-term insurer's liabilities under long-term policies and capital adequacy requirement in terms of section 30(1);
   c) for the purpose of efficient portfolio management;
   d) for the purpose of reducing investment risk:
      Provided that—
      i) in respect of paragraphs (a), (b) and (c), the long-term insurer will, or reasonably expects to, have the asset at the settlement date of the derivative instrument which matches the obligations under that instrument and from which it can discharge those obligations;
      ii) in respect of paragraph (d), the statutory actuary has in writing agreed thereto.

35. Failure to maintain financially sound condition

1) If a long-term insurer gives notice to the Registrar in terms of section 29(3), or if the Registrar is satisfied that a long-term insurer is failing, or is likely to fail within a reasonable period, to comply with section 29(1), the Registrar may, by notice, direct that long-term insurer to furnish the Registrar, within a specified period, with—
   a) specified information relating to the nature and causes of the failure; and
   b) its proposals as to the course of action that it should adopt to ensure its compliance with section 29(1).

2) When the Registrar has received the information and proposals referred to in subsection (1), the Registrar may, without derogating from the Registrar’s powers under section 11 or 12 or any other provision of this Act—
   a) authorise the long-term insurer concerned, by notice, to adopt a course of action, approved by the Registrar after considering those proposals and after consultation with the auditor and the statutory actuary of the long-term insurer, and which the
Registrar is satisfied will reasonably ensure that the long-term insurer complies with section 29(1), and the Registrar may, at that time or at any time thereafter, after further consultation with the auditor and the statutory actuary, by notice authorise the modification of that course of action to the extent that the Registrar deems appropriate in the circumstances; or

b) if it is reasonably necessary in the interests of the policyholders of the long-term insurer, at that time, or at any time thereafter, and notwithstanding any steps already taken by the Registrar in accordance with paragraph (a) or any other provision of this Act, act in accordance with section 41(2) or 42(2).

36. Returns to Registrar

1) A long-term insurer shall furnish the Registrar with returns relating to its business—
   a) in the medium and form;
   b) containing the information; and
   c) by the date or within the period, prescribed by the Registrar, either generally or in relation to a particular insurer.

2) If the Registrar is satisfied that a return furnished to him or her in terms of subsection (1) is incomplete or incorrect, he or she may, by notice—
   a) direct the long-term insurer to furnish the Registrar, within a specified period, with specified information or documents which the Registrar considers necessary to complete or correct the return; or
   b) reject the return and require the long-term insurer to furnish the Registrar, within a specified period, with a new return which is complete and correct.

3) If the Registrar is satisfied that a statement forming part of the returns furnished by the long-term insurer in terms of subsection (1) or (2) requires further investigation, the Registrar may by notice direct the long-term insurer to furnish him or her by a specific date or within a specific period with a report—
   a) in the medium and form; and
   b) containing the required information, compiled by a person nominated by the Registrar at the cost of the long-term insurer.

V. Compromise, arrangement, amalgamation, demutualisation and transfer

37. Registrar approval required for compromise, arrangement, amalgamation, demutualisation or transfer

1) No transaction to which a long-term insurer is a party and which constitutes an agreement by which all or any part of the business of a long-term insurer is transferred to another person, or by which a fundamental transaction or compromise contemplated in Part A of Chapter 5 and section 155 of the Companies Act is effected, or by which a long-term insurer which is not a company having a share capital is to be converted into a public
company having a share capital, shall have legal force without the approval of the Registrar.

[Subsection 1 amended by section 86(b) of Act No. 45 of 2013]

2) Any arrangement entered into between two or more insurers whereby a liability of any long-term insurer towards policyholders is to be substituted for a liability of any other insurer towards such policyholders (whether or not the liability of the long-term insurer is expressed in or created by existing policies or by new policies, or the terms of such new policies are the same as or different from the terms of the original policies), shall be deemed for the purposes of this section to be a scheme for the transfer of the insurance business concerned, unless the Registrar is satisfied that the said policyholders have been or will be made aware of the nature of such substitution and have signified or will signify their consent thereto in writing.

[Section 37 amended by sections 86(a) and 108(c) of Act No. 45 of 2013]

38. Application to Registrar

1) When application is made to the Registrar for the approval of a transaction referred to in section 37—
   a) the parties to the transaction shall jointly—
      i) at least 60 days before lodging the application, give notice to the Registrar thereof together with full particulars of the transaction, which particulars must be provided in the form as may be required by the Registrar;
      ii) at least 30 days before lodging the application, cause a notice, in the form and containing the information required by the Registrar, to be published in such official languages in the Gazette and in such other media as the Registrar may determine;
      iii) upon making the application, provide the Registrar with the application and all other documents relating thereto and supporting the application;
   b) a person who has an interest in the matter may, by notice given to the Registrar within 15 days after the publication in the Gazette of the notice referred to in paragraph (a)(ii), submit to the Registrar such representations concerning the transaction as are relevant to his, her or its interests;
   c) the Registrar may—
      i) appoint a person, at the cost of the parties to the transaction, to enquire into, and report to him or her on, the desirability or otherwise of the transaction;
      ii) by notice, direct any party to the transaction to provide the Registrar or that person with all information and documents relating to the transaction which the Registrar may require; and
   d) any policyholder, shareholder or creditor of the long-term insurer concerned may, within the period referred to in paragraph (b), file affidavits and other documents relating thereto and may appear before the Registrar and be heard in connection therewith.

[Subsection 1 amended by section 87(a), (b), (c), (d), (e) and (f) of Act No. 45 of 2013]

2) A long-term insurer may propose, conclude or give effect to any transaction or
39. Conditions of approval

Notwithstanding the provisions of the Companies Act, the approval of the Registrar of a transaction referred to in section 37(1) may be granted subject to such conditions as the Registrar may determine and shall not be granted—

a) unless the provisions of this Part have been complied with;

b) if the transaction is inconsistent with this Act or contrary to the interests of the policyholders of the long-term insurer concerned; or

c) unless payment of the cost referred to in section 38(1)(c)(i) has been made or secured.

40. Approved transaction

1) A transaction referred to in section 37(1) which is approved by the Registrar shall be binding on all persons and shall have effect as directed by the Registrar notwithstanding anything to the contrary contained in the constitution or rules of the parties thereto.

2) Notice of the passing of a special resolution (if any) by the members of a long-term insurer confirming a transaction referred to in section 37(1), together with a copy of the resolution and of the terms and conditions of the transaction, certified by the chairperson of the meeting at which the resolution was passed and by the public officer of the long-term insurer as a true and correct copy shall be furnished to the Registrar by the long-term insurer concerned, within 60 days of the passing of the resolution.
VI. Business rescue and winding-up of long-term insurers

41. Business rescue

(1) The Registrar may make an application under section 131 of the Companies Act in respect of a long-term insurer if the Registrar is satisfied, whether in accordance with section 12(3) or 35(2) of this Act, or otherwise, that it is in the interests of the policyholders of the long-term insurer to do so.

(2) The following acts are subject to the approval of the Registrar:
   (a) The resolution of a long-term insurer to begin business rescue proceedings;
   (b) the appointment of a business rescue practitioner;
   (c) the adoption of a business rescue plan; and
   (d) the exercise of a power by the business rescue practitioner under the Companies Act.

(3) In the application of Chapter 6 of the Companies Act—
   (a) a reference to the Commission shall be construed as a reference also to the Registrar;
   (b) the reference to creditors shall be construed as a reference also to the policyholders of the long-term insurer;
   (c) a reference relating to the inability of a long-term insurer to pay all its debts, shall be construed as relating also to its inability to comply with section 29(1) of this Act;
   (d) in addition to any question relating to the business of a long-term insurer, there
shall be considered also the question whether any proposed action is in the interests of the policyholders.

(4) If an application to a Court for an order relating to the business rescue of a long-term insurer is made by an affected person other than the Registrar—
   (a) it shall not be heard unless copies of the notice of motion and of all accompanying affidavits and other documents filed in support of the application have been lodged with the Registrar at least 60 days before the application is set down for hearing;
   (b) the Registrar may, if satisfied that the application is not in the interests of policyholders of the long-term insurer, join in the application as a party and file affidavits and other documents in opposition to the application.

(5) As from the date upon which a business rescue practitioner is appointed, the business rescue practitioner of a long-term insurer shall not enter into any new long-term policies, unless the practitioner has been granted permission to do so by the Registrar.

[Section 41 amended by section 91 of Act No. 45 of 2013]

42. Winding-up

1) Notwithstanding the provisions of the Companies Act or any other law under which a long-term insurer is incorporated, sections 79 to 81 of and item 9 of Schedule 5 to the Companies Act shall, subject to this section and with the necessary changes, apply in relation to the winding-up of a long-term insurer, and in such application the Registrar shall be deemed to be a person authorised under the Companies Act to make an application to the Court for the winding-up thereof.

[Subsection 1 amended by section 92(b) of Act No. 45 of 2013]

2) The Registrar may make an application under the Companies Act for the winding-up of a long-term insurer if the Registrar is satisfied, whether as contemplated in section 12(3) or 35(2) of this Act, or otherwise, that it is in the interests of the policyholders of that long-term insurer to do so.

[Subsection 2 amended by section 92(b) of Act No. 45 of 2013]

3) In the application of sections 79 to 81 of and item 9 of Schedule 5 to the Companies Act as provided by subsection (1)—
   a) a reference which relates to the inability of a long-term insurer to pay its debts shall be construed as relating also to its inability to comply with the requirements prescribed by section 29(1) of this Act;
   b) in addition to any question whether it is just and equitable that a long-term insurer should be wound up, there shall be considered also the question whether it is in the interest of the policyholders of that long-term insurer that it should be wound up;
   c) notwithstanding any other provision of sections 79 to 81 of and item 9 of Schedule 5, there shall be considered whether a person is acting in contravention of section 7(1)(a) of this Act;
   d) the references to the Master, Registrar of Companies, panel and Commission shall be construed as a reference also to the Registrar; and
   e) the requirement to give security shall not apply where the Registrar makes the
application to Court.

[Subsection 3 amended by section 92(c) and (d) of Act No. 45 of 2013]

4) If an application to the Court for or in respect of the winding-up of a long-term insurer is made by any person other than the Registrar—
   a) it shall not be heard unless copies of the notice of motion and of all accompanying affidavits and other documents filed in support of the application are lodged with the Registrar at least 15 days, or such shorter period as the Court may allow on good cause shown, before the application is set down for hearing; and
   b) the Registrar may, if satisfied that the application is contrary to the interests of the policyholders of the long-term insurer concerned, join the application as a party and file affidavits and other documents in opposition to the application.

[Section 42 amended by section 92(a) of Act No. 45 of 2013]

43. Voluntary winding-up

(1) No special resolution relating to the winding-up of a long-term insurer as contemplated in sections 79 to 81 of and item 9 of Schedule 5 to the Companies Act shall be filed or registered under that Act, and no special resolution to that effect in terms of the constitution of a long-term insurer which is not a company shall have legal force—
   a) unless a copy thereof has been lodged with the Registrar and he or she has, by notice to the long-term insurer, declared that arrangements satisfactory to the Registrar have been made to meet all liabilities of the long-term insurer under long-term policies entered into by it prior to the winding-up; or
   b) if the Registrar, by notice to the long-term insurer, declares that the resolution is contrary to this Act.

(2) Subject to item 9 of Schedule 5 to the Companies Act, the reference to a long-term insurer in this section shall for the purposes of the application of sections 79, 80 and 81 of the Companies Act be construed as a reference to a financially sound long-term insurer.

[Section 43 amended by section 93(a) and (b) of Act No. 45 of 2013]

VII. Business practice, policies and policyholder protection

Business practice

44. Free choice in certain circumstances

1) If a party to a contract in terms of which money is loaned, goods are leased or credit is granted, requires, whether as a condition thereof or otherwise, that a long-term policy or its policy benefits be made available and used for the purpose of protecting the interests of a creditor, the person who is so required to make that policy or those policy benefits available shall be entitled, and shall be given prior written notification of that entitlement, to a free choice—
   a) as to whether he or she wishes to enter into a new policy and make it available for
that purpose, or wishes to make available an existing policy of the appropriate value for that purpose, or wishes to utilise a combination of those options; and

b) if a new policy is to be entered into—
   i) as to the long-term insurer with which the policy is entered into and as to the intermediary (if any) who is to render services contemplated in section 49 in connection with the transaction;
   ii) as to whether or not the policy benefits concerned are to be provided in an event other than the death or disability of the life insured; and
   iii) as to whether or not the value of the policy benefits to be provided thereunder, when taken in the aggregate with the value of the policy benefits provided under any other policy which is also to be made available and used for that purpose, shall exceed the value of that debt or other obligation; and

c) if an existing policy is to be made available—
   i) as to the intermediary (if any) who is to render services contemplated in section 49 in connection with the transaction; and
   ii) as to whether or not a variation of the policy required for that purpose shall be such as to cause—
      aa) policy benefits to be provided in an event other than the death or disability of the life insured; or
      bb) the value of the policy benefits to be provided thereunder, when taken in the aggregate with the value of the policy benefits provided under any other policy which is also to be made available and used for that purpose, to exceed the value of that debt or other obligation.

2) The provisions of subsection (1) shall be deemed not to have been complied with unless the policyholder whose policy is to be made available has confirmed in writing, before the policy is used for the purpose of securing the debt concerned or other obligation, that he or she—
   a) was given prior written notification of his or her entitlement to the freedom of choice referred to in that subsection;
   b) exercised that freedom of choice; and
   c) was not subject to any coercion or inducement as to the manner in which he or she exercised that freedom of choice.

3) If the provisions of subsection (1) are not complied with, the security provided by the policy made available and used for the purpose shall be void and the policy benefits shall be provided to the person who made it available.

4) Subsection (1) shall not apply to a long-term insurer if it lends money to one of its policyholders upon the security of a long-term policy issued by itself.

45. Prohibition on inducements

Unless done in accordance with the rules made under section 62, no person shall provide, or offer to provide, directly or indirectly, any valuable consideration as an inducement to a person to enter into, continue, vary or cancel a long-term policy, other than a reinsurance policy.

[Section 45 amended by section 94 of Act No. 45 of 2013]
46. Policy to be actuarially sound

1) A long-term insurer shall not—
   a) enter into any particular kind of long-term policy unless the statutory actuary is satisfied that the premiums, benefits and other values thereof are actuarially sound;
   b) make a distinction between the premiums, benefits or other values of different long-term policies unless the statutory actuary is satisfied that the distinction is actuarially justified; or
   c) award a bonus or similar benefit to a policyholder unless—
      i) it is done in accordance with the principles and practices of financial management of the long-term insurer; and
      ii) the statutory actuary is satisfied that it is actuarially sound and that a surplus is available for that purpose.

2) For the purposes of subsection (1)(c)(i) "principles and practices of financial management" means a statement approved by the board of directors of the long-term insurer setting out the discretion retained by the board of directors and the parameters within which that discretion must be exercised in respect of long-term policies where the long-term insurer has to exercise its discretion in awarding a bonus or similar benefit.

47. Receipt for premium paid in cash, and validity of policy

1) When a premium is paid in bank notes or coins, the recipient thereof shall give to the payer a written receipt for it.

2) The receipt shall state the name, address and telephone number of the recipient, the policy number and the name of the long-term insurer on whose behalf the premium is received.

3) Paragraph (a) does not apply to a receipt issued by a bank as defined in section 1 of the Banks Act, 1990 (Act No. 91 of 1990), or by a mutual bank as defined in section 1 of the Mutual Banks Act, 1993 (Act No. 124 of 1993).

3) For the purposes of the validity of a long-term policy the payment of a premium under the long-term policy to a person on behalf of the long-term insurer shall be deemed to be payment to the long-term insurer under that long-term policy.

48. Summary, inspection and copy of policy

1) A person who enters into or varies a long-term policy, other than a fund policy and a reinsurance policy, shall be provided in writing or in another form prescribed by the Registrar, by the long-term insurer concerned, with information, in the form of a summary, relating to at least the following matters, namely—
   a) those of the representations made by or on behalf of that person to the insurer which were regarded by that insurer as material to its assessment of the risks under
the policy;
b) the premiums payable and the policy benefits to be provided under the policy; and
c) the events in respect of which the policy benefits are to be provided and the circumstances (if any) in which those benefits are not to be provided, and shall be provided with that information as soon as possible, but not later than 60 days after the parties enter into or agree to vary the policy.

2) The summary referred to in subsection (1) shall be *prima facie* proof of the agreement, but shall—
   a) not be deemed to be part of the policy;
b) in the absence of evidence to the contrary, be deemed to be exhaustive of the matters which are material to the assessment of the risks under the policy.

3) The policyholder shall be entitled to be provided, upon request, with a copy of the policy.

49. Limitation of remuneration

No consideration shall be offered or provided by or on behalf of a long-term insurer, a policyholder or any other person, or accepted by any independent intermediary or any other person, for rendering services referred to in the regulations, other than commission or remuneration contemplated in the regulations and otherwise than in accordance with the regulations.

*[Section 49 amended by sections 95 and 108 (g) of Act No. 45 of 2013]*

49A. Binder agreements

1) A long-term insurer may, in terms of a written agreement only, and in accordance with any requirements, limitations or prohibitions that may be prescribed by regulation, allow another person to do any one or more of the following on behalf of that insurer:
   a) Enter into, vary or renew a long-term policy, other than a long-term reinsurance policy, on behalf of that insurer;
b) determine the wording of a long-term policy;
c) determine premiums under a long-term policy;
d) determine the value of policy benefits under a long-term policy;
e) settle claims under a long-term policy.

2) A written agreement referred to in subsection (1) must—
   a) set out which of the activities referred to in subsection (1) that other person may perform and the particular kinds of long-term policies in respect of which those activities may be performed;
b) set out the particular kinds of long-term policies which may be entered into, varied or renewed by that other person;
c) state if that other person is authorised to determine the wording of the policies referred to in paragraph (a), and if authorised, the extent to which and the circumstances under which the wording may be determined;
d) state if that other person is authorised to determine premiums in respect of the policies referred to in paragraph (a), and if authorised, the gross premiums or the basis for the calculation of gross premiums that may be determined, and the extent to which and the circumstances under which the premiums may be determined;

e) state if that other person is authorised to determine the value of policy benefits, and if authorised, the maximum value of the policy benefits that may be determined under each kind of long-term policy referred to in paragraph (a), and the extent to which and the circumstances under which the benefits may be determined;

f) state if that other person is authorised to settle claims under the policies referred to in paragraph (a), and if authorised, the extent to which and the circumstances under which the claims may be settled;

g) state the basis on which that other person will be remunerated for services rendered in terms of paragraphs (b) to (f), which basis must be consistent with any requirements, limitations or prohibitions as may be prescribed by regulation;

h) oblige that other person to—
   i) disclose to policyholders of policies referred to in paragraph (a)—
      aa) the name of the relevant long-term insurer, and the fact that that other person is acting in terms of an agreement contemplated in this section; and
      bb) any remuneration payable to that other person in terms of an agreement contemplated in this section;
   ii) include the name of the long-term insurer underwriting the long-term policy in any advertisement, brochure or similar communication which relates to the long-term policy referred to in paragraph (a);
   iii) keep and maintain proper books of account and other records in respect of the policies referred to in paragraph (a) and allow the long-term insurer, its statutory actuary and its auditors full and unfettered access to those books of account and records; and
   iv) make available to the long-term insurer, its statutory actuary and its auditors the policies referred to in paragraph (a) and any information relating thereto, including the names, identity numbers and contact details of policyholders, insured persons and beneficiaries, upon request;
   i) prohibit that other person to delegate, assign or subcontract any of the functions referred to in paragraphs (b) to (f) to another person; and
   j) state the circumstances under which the agreement will lapse or may be terminated, and the necessary steps that must be taken to ensure the effective and efficient termination of the agreement taking into account the interests of policyholders.

3) A written agreement referred to in subsection (1), subject to any requirements, limitations or prohibitions as may be prescribed by regulation—
   a) may not authorise that other person to add an amount to any gross premium referred to in subsection (2)(d);
   b) may not authorise that other person to deduct any amount from any claims referred to in subsection (2)(f); or
   c) may provide or prohibit that person to directly or indirectly participate in the profits attributable to the policies referred to in subsection 2(a).

4) A person that entered into an agreement contemplated in subsection (1) with a long-term insurer may—
   a) render the services contemplated in subsection (1)(a) to (e) in respect of any kind of
49. Long-term policy issued by that long-term insurer identified in the agreement only in accordance with any requirements, limitations or prohibitions as may be prescribed by regulation; and

b) not render any of the services contemplated in subsection (1)(a) to (e) in respect of any kind of long-term policy issued by that long-term insurer not identified in the agreement.

5) Despite any term to the contrary contained in an agreement contemplated in subsection (1) the long-term insurer that entered into the agreement remains—
   a) responsible for compliance with this Act;
   b) liable for any claims relating to policies included in the agreement, including any claims that may arise because of the failure of that other person to comply with the agreement; and
   c) the owner of any information and documentation relating to the policies contemplated in the agreement, which must, upon termination of the agreement, be returned to the long-term insurer.

6) Any party to a written agreement referred to in subsection (1) must make a copy of that agreement available to the Registrar on request.

50. Undesirable business practice (REPEALED)

[Section 50 repealed by section 96 of Act No. 45 of 2013]

Policies

51. Policy suspended until payment of first premium

The undertaking of a long-term insurer to provide policy benefits under a long-term policy, other than a fund policy or a reinsurance policy, shall be suspended until the long-term insurer has received, if there—
   a) is to be one premium, that premium; or
   b) are to be two or more premiums, the first of those premiums, or until arrangements to its satisfaction have been made for the provision of the premium by debit order, stop order, credit card or other instrument approved by the Registrar generally by notice on the official web site.

[Section 51 amended by section 97 of Act No. 45 of 2013]

52. Failure to pay premiums

1) If a premium under a long-term policy, other than a fund policy or a reinsurance policy, has not been paid on its due date, the long-term insurer shall notify the policyholder of the non-payment, and the policy shall, notwithstanding anything therein to the contrary, in
the case of a long-term policy under which there are to be two or more premium payments at intervals of—
   a) one month or less, remain in force for a period of 15 days after that due date;
   b) longer than one month, remain in force for a period of one month after that due date,
or for such longer period as may be determined by agreement between the parties, and if the overdue premium is not paid by the end of any such period, the policy shall be dealt with in accordance with subsection (2).

2) In the case of a policy contemplated in subsection (1) the remaining value of which, after the satisfaction of any claim of the long-term insurer which is secured solely by the policy benefits to be provided under the policy, is greater than half of the aggregate amount of the premium payments due thereunder during the period of 12 months commencing on the due date of the unpaid premium, the long-term insurer shall—
   a) inform the policyholder, in the medium prescribed by the Registrar, of the amount of that remaining value and notify him or her that the policy will remain in force, in accordance with the rules of the long-term insurer, until—
      i) the policy no longer has any such remaining value, whereupon it will lapse;
      ii) the payment of premiums is resumed;
      iii) the provisions of the policy are amended, in accordance with the rules of the long-term insurer, so that it becomes a policy which is fully paid-up;
      iv) if the policyholder so requests, the policy is surrendered, in accordance with the rules of the long-term insurer, and so much of the remaining value as then remains is, subject to section 54, paid to the policyholder; and
   b) deal with the policy accordingly.

3) A long-term insurer shall have rules which to the satisfaction of its statutory actuary prescribe a sound basis on which, and the methods by which, a long-term policy is to be valued and otherwise dealt with for the purposes of subsection (2).

53. Option for payment of policy benefits in money

1) Despite the terms of an assistance policy entered into before 1 June 2009, the policyholder is entitled to demand that a policy benefit which is expressed otherwise than as a sum of money must be provided as a sum of money, in which case the sum of money must be equal in value to the policy benefit that would have been provided by the insurer or any person acting on behalf of the insurer had the policy benefit been provided otherwise than as a sum of money.

   [Subsection 1 amended by section 98(a) of Act No. 45 of 2013]

2) Where an assistance policy that provides for a policy benefit expressed otherwise than as a sum of money is entered into on or after 1 June 2009 that policy must—
   a) provide that the policyholder is entitled to demand that the policy benefit be provided as a sum of money in lieu of the benefit on the occurrence of the event insured against; and
   b) state the amount of the policy benefit that is to be provided as a sum of money, which amount must be equal to the value of the policy benefit expressed otherwise than as a sum of money.

   [Subparagraph (b) amended by section 98(b) of Act No. 45 of 2013]
3) Where a policy benefit expressed otherwise than as a sum of money is provided as a sum of money, the amount of that policy benefit may not exceed the maximum amount referred to in the definition of ‘assistance policy’ in section 1(1) of this Act.

54. Limitation on provisions of certain policies

1) A long-term insurer may not—
   a) undertake to provide policy benefits, or provide policy benefits, under;
   b) provide consideration upon the surrender of; or
   c) make a loan upon the security of,
   a long-term policy contemplated in the regulations, otherwise than in accordance with the requirements and limitations set out in the regulations.

2) The requirements and limitations set out in regulations made under subsection (1) apply from the inception of a policy, if the regulation so provide, irrespective of the fact that the policy was entered into before or after the commencement of this Act or the regulations.

55. Limitation on policy benefits in event of death of unborn or of certain minors

1) A long-term insurer shall not undertake to provide, or provide, policy benefits, in terms of a life policy or assistance policy, in the event of the death of an unborn, or of a minor before that minor attains the age of 14 years, the value of which, on its own or when added to the value of policy benefits which to its knowledge are to be provided in that event by a long-term insurer or a short-term insurer or a friendly society in terms of any policy, exceeds, in the event of the death—
   a) of that unborn, or of that minor before he or she attains the age of six years, R 10 000; or
   b) of that minor after he or she attains the age of six years but before he or she attains the age of 14 years, R30 000,
   or such other amount prescribed by the Minister: Provided that this section shall not apply to or prohibit the allocation of profit in respect of such policies on the lives of miners, which allocation does not exceed the profits allocated to other such policies on the lives of persons who are not minors.

2) Subsection (1) shall not apply in relation to a policy in terms of which, in the event of the death of the unborn, or of the minor before he or she attains the age of 14 years, the value of the policy benefits does not exceed an amount equal to the aggregate of all the premiums paid in terms of that policy, plus interest on each premium at a rate prescribed by the Minister, compounded annually.

56. Voidness of certain provisions of agreements relating to long-term policies

A provision of an agreement, the purport of which is that—
a) a long-term insurer is exempted from liability for the actions, omissions or representations of a person acting on its behalf in relation to a long-term policy;

b) the person who has entered into the long-term policy declares or admits that a person who acted on behalf of the long-term insurer in connection with an offer of that person to do so, or with the negotiations preceding the entering into it, was in fact appointed to act on behalf of the first-mentioned person;

c) the obligation of a long-term insurer under a long-term policy is dependent upon the discharging of an obligation of another person under a reinsurance policy or a person who has entered into a long-term policy, or the life insured under a long-term policy, waives a right to which he or she, by or under this Act, is entitled, shall be void.

57. Life policy in relation to person rendering or liable to render military service

1) A long-term insurer shall not refuse to enter into a life policy on the grounds that the life insured is a person rendering or liable to render military service in accordance with the Defence Act, 1957 (Act No. 44 of 1957).

2) Notwithstanding anything to the contrary in a life policy contained, the policy benefits to be provided thereunder in the event of the death of the life insured in the course of or as a result of the rendering of military service in accordance with the Defence Act, 1957, shall not be less than an amount equal to the value for which the policy could be surrendered on the day of the death of the life insured, had the regulations not been made.

58. Long-term policies entered into by certain minors

A minor who has attained the age of 18 years may, without the consent of his or her guardian as if he or she has attained majority, enter into or vary, or deal with a long-term policy under which he or she is the life insured and pay the premium due under the policy with money which he or she has earned or which is at his or her disposal, and a policy benefit under the policy shall be provided to the minor who may deal with it as he or she thinks fit without the consent of his or her guardian, as if he or she has attained majority.

59. Misrepresentation and failure to disclose material information

1) Notwithstanding anything to the contrary contained in a long-term policy, whether entered into before or after the commencement of this Act, but subject to subsection (2) –

i) the policy shall not be invalidated;

ii) the obligation of the long-term insurer thereunder shall not be excluded or limited; and

iii) the obligations of the policyholder shall not be increased, on account of any representation made to the insurer which is not true, or failure to disclose
information, whether or not the representation or disclosure has been warranted to be true and correct, unless that representation or non-disclosure is such as to be likely to have materially affected the assessment of the risk under the policy concerned at the time of its issue or at the time of any variation thereof.

b) The representation or non-disclosure shall be regarded as material if a reasonable, prudent person would consider that the particular information constituting the representation or which was not disclosed, as the case may be, should have been correctly disclosed to the insurer so that the insurer could form its own view as to the effect of such information on the assessment of the relevant risk.

2) On account of any representation made to the insurer which is not true, whether or not the representation has been warranted to be true, unless that representation is such as to be likely to have materially affected the assessment of the risk under the policy concerned at the time of its issue or at the time of any variation thereof.

3) If the age of a life insured under a long-term policy has been incorrectly stated to the long-term insurer, the policy benefits shall, notwithstanding subsection (1), be those which would have been provided under that policy in return for the premium payable had the age been correctly stated: Provided that if the nature of that long-term policy, or kind of long-term policy, is such as to render such arrangement inequitable, the Registrar may direct the long-term insurer to apply such different method of adjustment to the policy benefits of that long-term policy, or type of long-term policy, as the Registrar considers equitable in relation to the misstatement of age.

60. Validity of contracts

1) A long-term policy, whether entered into before or after the commencement of this Act, shall not be void merely because a provision of a law, including a provision of this Act, has been contravened or not complied with in connection with it.

2) If a person has entered into a long-term policy with a long-term insurer who was, in terms of this Act, prohibited from entering or not authorised to enter into the long-term policy, or with another person who is not a long-term insurer but who has in terms of a long-term policy undertaken an obligation as insurer, that person, by notice in writing to such long-term insurer or other person, or the Registrar by notice to such long-term insurer or other person and on the official web site, may cancel the long-term policy, whereupon that person shall be deemed to be in the same legal position in respect of such long-term insurer or other person as if the policy had been cancelled by that person on account of a breach of contract by such long-term insurer or other person.
   
   [Subsection 2 amended by section 99 of Act No. 45 of 2013]

3) Any contract entered into before the commencement of this Act the entering into of which is contrary to this Act or which contains terms prohibited by this Act, shall not be void nor shall the performance of its terms be unlawful merely because of any such fact.
61. Prescription of certain debt

Debt consisting of interest on an unpaid premium, or on a loan granted by a long-term insurer on sole security of a long-term policy, or on an advance granted by a lone-term insurer in respect of an amount which is to be payable under a long-term policy, shall, in the case of a long-term policy entered into after 31 December 1973, not prescribe before the liability of the long-term insurer under the long-term policy prescribes.

Policyholder protection

62. Protection of policyholders

(1) The Registrar, by notice in the Gazette, may—
   (a) make rules not inconsistent with this Act, aimed at ensuring for the purpose of policyholder protection that policies are entered into, executed and enforced in accordance with sound insurance principles and practice in the interests of the parties and in the public interest generally;
   (b) vary or rescind any such rule; and
   (c) determine the period which must elapse before a rule, variation or rescission takes effect after it has been published in the Gazette.

(2) Without derogating from the generality of subsection (1)(a), rules may provide—
   (a) that provisions with a particular import may not appear in a policy and that they shall be void if they do so appear;
   (b) that particular information in relation to a policy shall be made known in a particular manner to a prospective policyholder or policyholder, and what the legal consequences shall be if that is not done;
   (c) that a policyholder may cancel a policy under particular circumstances and within a determined period, and what the legal consequences shall be if he or she does so;
   (d) for norms and standards with which policies, long-term insurers or types of long-term insurance business must comply;
   (e) for standardised wording, definitions or provisions that must be included in policies;
   (f) that in respect of a contravention of, or a failure to comply with, a rule, a penalty or fine referred to in section 66(1)(c) of 67(1)(c) shall apply.

(3) Rules referred to in subsection (2) may—
   (a) apply generally; or
   (b) be limited in application to a particular kind or type of policies, long-term insurers or long-term insurance business.

(4) Before the Registrar prescribes any rule under this section, the Registrar must—
   (i) publish notice of the release of the proposed rule in the Gazette, indicating that the proposed rule is available on the official web site and calling for public comment in writing within a period stated in the notice, which period may not be less than 30 days from the date of publication of the notice; and
   (ii) submit the draft rules to Parliament, while it is in session, for parliamentary scrutiny at least one month before their promulgation.
(b) If the Registrar alters a draft rule because of any comment, the Registrar need not publish the alteration before making the rule.

(c) After consideration of any comments received in response to the publication and tabling of the draft proposed rule in terms of paragraph (a), the Registrar may publish the final rule in the Gazette.

(5) Any rule promulgated by the Minister prior to the commencement of the Financial Services Laws General Amendment Act, 2013, must be regarded as having been made under this section, and remains valid and enforceable until repealed or amended by the Registrar.

Section 62 amended by section 100 of Act No. 45 of 2013

63. Protection of policy benefits under certain long-term policies

1) Subject to subsections (2), (3) and (4), the policy benefits provided or to be provided to a person under one or more assistance, life, disability or health policies in which that person or the spouse of that person is the life insured and which has or have been in force for at least three years (or the assets acquired exclusively with those policy benefits) shall, other than for a debt secured by the policy—
   a) during his or her lifetime, not be liable to be attached or subjected to execution under a judgment of a court or form part of his or her insolvent estate; or
   b) upon his or her death, if he or she is survived by a spouse, child, stepchild or parent, not be available for the purpose of the payment of his or her debts.

Subsection 1 amended by section 101(a) of Act No. 45 of 2013

2) The protection contemplated in subsection (1) shall apply to policy benefits and assets acquired solely with the policy benefits, for a period of five years from the date on which the policy benefits were provided.

Subsection 2 amended by section 101(b) of Act No. 45 of 2013

3) Policy benefits are only protected as provided in—
   a) subsection (1)(b), if they devolve upon the spouse, child, stepchild or parent of the person referred to in subsection (1) in the event of that person's death; and
   b) subsection (1)(a) and (b), if the person claiming such protection is able to prove on a balance of probabilities that the protection is afforded to him or her under this section.

Subsection 4 inserted by section 101(c) of Act No. 45 of 2013

64. Selection for realisation of protected policies

If—
   a) two or more long-term policies referred to in section 63, held by the same policyholder,
are attached in execution of a judgment or order of any court at the instance of a creditor; or
b) the policyholder of two or more long-term policies referred to in section 63 is found to be or otherwise declared insolvent by a Court, and only a part of the aggregate realisable value of the policies is protected as contemplated in that section, the judgment creditor or the trustee of the insolvent estate, as the case may be, shall determine which policy or policies shall be realised, wholly or partially, in order to make available to him or her so much of the aggregate realisable value as is not so protected and to which he or she is entitled.

65. Partial realisation of protected policies

1) A judgment creditor or the trustee of the insolvent estate of a policyholder, who is entitled to a part of the realisable value of a long-term policy may, if he or she is in possession of the policy, deliver it to the insurer who is liable under the policy for the purpose of the payment to that creditor or trustee of the sum to which he or she is entitled.

2) If a judgment creditor or trustee referred to in subsection (1) is not in possession of the policy concerned, the person in possession thereof shall, at the request of the judgment creditor or trustee, deliver it to the insurer which is liable under the policy for the purpose of the payment to that creditor or trustee of the sum to which he or she is entitled.

3) On receipt of a long-term policy delivered to it in terms of subsection (1) or (2), the long-term insurer shall—
   a) at the request of the judgment creditor or trustee concerned, pay to him or her a sum equal to that part of the realisable value of the policy to which he or she is entitled; and
   b) deal with the remaining part of the realisable value of the policy in accordance with section 52(2).

VIII. Offences and penalties

66. Offences by persons other than long-term insurers

1) A person, other than a long-term insurer, who—
   a) contravenes or fails to comply with a provision of a notice, directive or request referred to in section 4(3), (4) or (5)(a)(i), 22(2) or 27(2);
   b) contravenes or fails to comply with a provision of section 8(1) (a) or (b), 16(2), 23(1), 28(1), 44(1), 45, 47 or 49; or 49A;
   c) where a rule contemplated in section 62(2)(f) so provides, contravenes or fails to comply with a provision of any rule to the extent so provided; or
   [Subsection 1(c) amended by section 102(a) of Act No. 45 of 2013]
   d) furnishes false information in relation to an application referred to in section 9(1) or an application for the approval of the Minister under a provision of this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years, or to both such fine and such
imprisonment.

2) A person, other than a long-term insurer, who contravenes or fails to comply with a provision of section 7(1)(a), 8(3); 20(5)(b) or 26(1) or (2), shall be guilty of an offence and liable on conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

[Subsection 2 amended by section 102(c) of Act No. 45 of 2013]

67. Offences by long-term insurers

1) A long-term insurer which—
   a) contravenes or fails to comply with a provision of a notice, directive or request referred to in section 4(2), (3) or (4), 22(1) or (2), 27(1), 31(2), 35(1) or (2)(a) or 36(2);
   b) contravenes or fails to comply with a provision of section 7(1)(b), 8(2), 16(1), 17, 18, 23(1) or (2), 25(1), 29(3), 36(1), 44(1), 45, 48(1), 49, 49A, 54 or 55(1); or
   c) where a rule contemplated in section 62(2)(f) so provides, contravenes or fails to comply with a provision of any rule to the extent so provided;
   shall be guilty of an offence and liable on conviction to a fine not exceeding R5 million.

[Subsection 1 amended by section 103(a) and (b) of Act No. 45 of 2013]

2) A long-term insurer who contravenes or fails to comply with a condition contemplated in section 9(2)(a) or a provision of a notice under section 12(2)(c) or 13(2), or of section 7(1)(a), 15(1) or (2), 19(1) or (3), 20(1), (3) or (4), 24, 26(1) or (2), 29(1), 30, 31(1), 34 or 46, shall be guilty of an offence and liable on conviction to a fine not exceeding R10 million.

[Subsection 2 amended by section 103(c) of Act No. 45 of 2013]

68. Penalty for failure to furnish Registrar with returns etc

1) (a) A person who fails to furnish the Registrar with a return, information or document, as provided by this Act, within the prescribed or specified period or any extension thereof shall irrespective of any criminal proceedings instituted against the person under this Act, be liable to a penalty not exceeding R5 000 for every day during which the failure continues, unless the Registrar, on good cause shown, waives the penalty or any part thereof.
   (b) The amount referred to in paragraph (a) must be adjusted by the Registrar annually in order to reflect the Consumer Price Index, as published by Statistics South Africa.

[Subsection 1 amended by section 104 of Act No. 45 of 2013]

2) A penalty contemplated in subsection (1) shall be imposed by notice by the Registrar on the person concerned, and such imposition shall be preceded by the procedures prescribed by the Minister to afford such person a reasonable opportunity to be heard, and shall take effect on a date specified in such notice of the Registrar which may be a date prior to the date of the notice.
3) A penalty so imposed shall constitute a debt due to the Board and shall be recoverable by action by the Board in any court having jurisdiction.

IX. Transitional and general provisions

Transitional provisions

69. Continued registration of existing insurers

1) A person who immediately prior to the commencement of this Act was registered in terms of the repealed Act, and was, by virtue of that registration, authorised to carry on long-term insurance business as defined in that Act, shall be deemed to be registered as a long-term insurer in terms of this Act and shall, subject to this Act, be authorised, in the case of a person who was so authorised to carry on the long-term insurance business of providing or undertaking to provide policy benefits in terms of—
   a) assistance policies;
   b) disability policies;
   c) fund policies;
   d) health policies;
   e) life policies; or
   f) sinking fund policies,

to carry on that business subject, as if they were conditions contemplated in section 9(2) (a) of this Act, to the conditions which had been determined in respect of such person in relation to such person’s registration to carry on that business in terms of the repealed Act.

2) A person referred to in subsection (1) shall, within a period of six months after the commencement of this Act, make application to the Registrar in accordance with section 3(2) for the issuing to such person, as contemplated in section 9(2)(b), of a new certificate of registration in exchange for the certificate of registration issued to such person under the repealed Act.

3) Upon receipt of an application in terms of subsection (2), the Registrar shall issue the new certificate of registration specifying the conditions referred to in subsection (1) as if they had been determined by him or her with the necessary changes in terms of section 9, and shall not thereupon vary any of those conditions, or determine a new condition, otherwise than in terms of section 11.

70. Certain existing insurers to cease short-term insurance business or to separate it from long-term insurance business

A person referred to in section 69(1), who was, by virtue of such person’s registration under the repealed Act, authorised to carry on both long-term insurance business and short-term insurance business, other than reinsurance business only, as defined in that Act, shall, within a period of six months after the commencement of this Act, make arrangements satisfactory to the Registrar and in accordance with the appropriate provisions of the Short-term Insurance Act,
1998, as the case may be, which have the result—
   a) that the long-term insurer ceases to carry on that short-term insurance business; and
   b) that the long-term insurance business concerned is carried on by a long-term insurer and the short-term insurance business concerned is carried on by a short-term insurer.

General provisions

71. Special provisions concerning long-term insurers that are not public companies

1) Notwithstanding anything to the contrary in any law contained, a long-term insurer which is not a public company shall be subject to section 20 of the Companies Act with the necessary changes as if it were a public company having a share capital.

[Subsection 1 amended by section 105(a) of Act No. 45 of 2013]

2) The provisions of this Act shall prevail over any provision of a law under which a long-term insurer contemplated in section 9(3)(a)(ii) is incorporated if that provision is inconsistent with this Act.

2A) No exemption granted under any law under which a long-term insurer is incorporated or registered shall constitute an exemption from the provisions of this Act.

3) The financial statements of a long-term insurer, other than the financial statements drawn up by the statutory actuary, shall be drawn up and presented in accordance with financial reporting standards applicable to a public company having a share capital.

[Subsection 3 amended by section 105(b) of Act No. 45 of 2013]

72. Regulations

1) The Minister may make regulations not inconsistent with this Act—
   a) prescribing all matters which are required or permitted by this Act to be prescribed by regulation;
   b) limiting the amount which and the extent to which a long-term insurer may invest in particular kinds and categories of assets, prescribing the basis on which the limit shall be determined and defining the kinds or categories of assets to which the limit applies;
   c) authorising the Registrar to grant unconditional or conditional exemption, whether unlimited or limited in duration, from provisions of the regulations contemplated in paragraph (b);
   d) prohibiting any consideration from being offered or provided, or limiting the consideration which may be offered or provided, from, by or on behalf of a long-term insurer to any person for rendering services as intermediary, or to any other person associated in business with or related within the second degree of consanguinity or affinity to any person who has rendered or is to render such services;
   e) prohibiting any consideration from being offered or provided, or prescribing the
manner in and conditions on which consideration may be offered or provided, from, by or on behalf of any person other than a long-term insurer to any person for rendering services as intermediary, or to any other person associated in business with or related within the second degree of consanguinity or affinity to any person who has rendered or is to render such services;

f) prescribing different classes of persons to whom consideration contemplated in paragraphs (d) and (e) may be offered or provided, for such services rendered or to be rendered;

g) prescribing periods within which policies and amended policies are to be issued;

gA) prescribing in respect of section 49A, requirements, limitations or prohibitions relating to—
1) the agreements contemplated in section 49A(1);
2) any additions to gross premiums or deductions from claims in respect of policies referred to in the agreements contemplated in section 49A(1);
3) any consideration that may be offered or provided from, by or on behalf of a long-term insurer to a person that enters into an agreement contemplated in section 49A(1) with a long-term insurer;
4) any participation or sharing in the profits attributable to the policies referred to in the agreements contemplated in section 49A(1); and
5) the circumstances under which a person who has entered into an agreement contemplated in section 49A(1) may render services in respect of a policy not referred to that person by the relevant insurer or an independent intermediary.

h) prescribing that every long-term insurer shall within a specified period as from the close of each financial year of its long-term insurance business furnish the Registrar with a statement of all changes which occurred during the said year in specified matters in relation to the insurer concerned.

2) Regulations made under this section may—

a) differentiate between different kinds of insurers, policies, agreements or contracts, which may, for the purposes of this section, be defined either in relation to categories, types or kinds of insurers or policies or in any other manner;

b) be limited in its application to a particular kind of insurer, policy, agreement or contract, which may, for the purposes of this section, be defined either in relation to categories, types or kinds of insurers or policies or in any other manner; and

c) prescribe a fine or a period of imprisonment not exceeding one year for a contravention of or a failure to comply with a provision of the regulations.

2A)

a) The Minister, despite the definition of 'business of a medical scheme' in section 9(1) of the Medical Schemes Act, may make regulations identifying a kind, type or category of contract as a health policy.

b) Regulations under paragraph (a)—

i) must be made only—

   aa) in consultation with the Minister of Health;

   bb) after consultation between the National Treasury, the Registrar and the Registrar of Medical Schemes established under the Medical Schemes Act; and

   cc) after having regard to the objectives and purpose of the Medical Schemes Act, including the following principles entrenched therein—

A) community rating;
B) open enrolment; and
C) cross-subsidisation within medical schemes; and
ii) must provide for a long-term insurer to submit specified information on any product within a kind, type or category of contract referred to in paragraph (a) to the Registrar and the Registrar of Medical Schemes within any specified timeframes;
iii) may provide for matters relating to the design and marketing of any product within a kind, type or category of contract referred to in paragraph (a).
c) Where the Minister has made regulations referred to in paragraph (a), the kind, type or category of contract identified as a health policy in the regulations, is subject to this Act and not the Medical Schemes Act.

2B) Before regulations in terms of this Act are promulgated, the Minister must publish the draft regulations in the Gazette for public comment and submit the regulations to Parliament, while it is in session, for parliamentary scrutiny at least one month before their promulgation."

73. Repeal and amendment of laws

Subject to section 74, the laws specified in Schedule 4 are hereby repealed or amended to the extent set out in the third column of that Schedule.

74. Savings

1) Notwithstanding the partial repeal of the repealed Act by section 73, the provisions of—
a) section 25, read with section 19A of that Act, shall continue to apply in relation to a long-term insurer that has before the commencement of this Act notified the Registrar, as defined in the repealed Act, that it intends to apply to the Court for the confirmation of a conversion contemplated in the said section 25, and if such application is made to the Court before 31 December 1999, that application may, if the long-term insurer so elects, be made, continued with and dealt with in accordance with the said provisions as if they had not been repealed by section 73;
b) section 38, read with sections 38B, 52, 58 and 59 of that Act, shall continue to apply in relation to a policy contemplated in those sections and entered into during the period 1 April 1944 to 20 June 1978;
c) section 38A, read with sections 38B, 52, 58, 59 and 59A of that Act, shall continue to apply in relation to any policy contemplated in those sections and entered into during the period 21 June 1978 to the date immediately before the commencement of this Act;
d) section 62 of that Act shall continue to apply in relation to any industrial and funeral policy contemplated in that section;
e) the Second Schedule to that Act shall continue to apply to industrial and funeral policies.

2) Anything done before the commencement of this Act under, in terms of or by virtue of a provision of the repealed Act by or in relation to persons registered in terms of that Act to
carry on long-term insurance business as defined in that Act shall, in so far as it was done lawfully and unless it is clearly inappropriate, be deemed to have been done under, in terms of or by virtue of the corresponding provision of this Act.

75. Interpretation of certain references in existing laws

Unless it would in a particular case be clearly inappropriate, a reference in a law in force immediately before the commencement of this Act—

a) to a domestic insurer or a registered insurer, shall be construed as a reference to a long-term insurer or a short-term insurer, as the case may be;

b) to a home service policy, a funeral policy or an industrial policy, shall be construed as a reference to an assistance policy;

c) to home service business, funeral business or industrial business, shall be construed as a reference to the business of providing policy benefits under assistance policies;

d) to insurance business as defined in the repealed Act, shall, in relation to a long-term insurer, be construed as a reference to long-term insurance business;

e) to a life policy, shall be construed as a reference to a life policy, a disability policy, a fund policy or a health policy, as the case may be;

f) to life business, shall be construed as a reference to the business of providing policy benefits under long-term policies other than assistance policies or sinking fund policies;

g) to a personal accident policy, shall, in relation to a long-term insurer, be construed as a reference to a disability or health policy;

h) to personal accident business, shall, in relation to a long-term insurer, be construed as a reference to the business of providing policy benefits under disability or health policies;

i) to a valuator, as defined in the repealed Act, shall be construed as a reference to a statutory actuary.

76. Short title and commencement

This Act shall be called the Long-term Insurance Act, 1998, and shall come into operation on a date fixed by the President by proclamation in the Gazette.

Schedules

1. Kinds of assets

1. Requirement for claim to be asset, and definitions

(Section 31)

For the purposes of this Schedule and section 31 a claim qualifies as an asset in the Republic only if it is enforceable in accordance with the law of the Republic and is realisable in the Republic,
and—

"contract for differences"
means a contract the purpose of which is to secure a profit or avoid a loss by reference to
fluctuations in the value or price of—
  a) an asset;
  b) income from such asset;
  c) an index of such assets or the income therefrom;

"derivatives"
means—
  a) an option contract;
  b) a futures contract; and
  c) a contract for differences;

"futures contract"
means a standardised contract the effect of which is that—
  a) a person agrees to deliver to or receive from another person a certain quantity of
corporeal or incorporeal things before or on a future date at a pre-arranged price;
or
  b) an amount of money will be paid to or received from another person before or on a
future date according to whether the pre-arranged value or price of—
    i) an asset;
    ii) an index as a means of indicator that reflects changes in the value of one or
        more groups of shares or securities on one or more exchanges;
    iii) currency;
    iv) rate of interest; or
    v) any other factor,
  c) is higher or lower before or on that future date than the pre-arranged value or
price.

"listed"
in relation to an asset referred to in item 16(5) of the Table to this Schedule, means that—
  a) there has been granted and not withdrawn, a listing in respect of that asset on a stock
exchange outside the Republic, and that transactions in the asset are effected regularly
on that stock exchange;
  b) transactions in that asset are effected regularly on a regulated market;

"margin"
in relation to a stock exchange outside the Republic, means the margin as defined in the
regulations issued or approved by the appropriate authority of the country in which the stock
exchange is situated or which is required by that stock exchange;

"margin deposit"
means a margin with SAFEX and a stock exchange outside the Republic;

"margin with SAFEX"
means the margin as defined in the rules of the South African Futures Exchange, referred to in
section 18 of the Securities Services Act, 2004 (Act No. 36 of 2004);
"n.e.s."
means not elsewhere specified in this Schedule;

"option contract"
means a standardised contract the effect of which is that a person acquires the option—
a) to buy from or to sell to another person a certain quantity of corporeal or incorporeal things before or on a future date at a pre-arranged price; or
b) that an amount of money will be paid to or received from another person before or on a future date according to whether the pre-arranged value or price of—
i) an asset;
ii) an index as a means of indicator that reflects changes in the value of one or more groups of shares or securities on one or more exchanges;
iii) currency;
iv) rate of interest; or
v) any other factor,
is higher or lower before or on that future date than the pre-arranged value or price;

"regulated market"
means a market situated outside the Republic which is characterised by—
a) regular operation; and
b) the fact that regulations are issued or approved by the appropriate authority of the state where the market is situated to determine conditions—
i) for the operation of and access to the market; and
ii) to be satisfied by a financial instrument in order for it to be effectively traded in the market;

"securities"
includes bills, bonds, debentures and debenture stock, loan stock, promissory notes, annuities, negotiable certificates of deposit and other financial instruments prescribed by the Registrar;

"shares"
includes share stock.

2. Derivatives

An instrument shall be deemed not to be a derivative for the purposes of this Schedule unless—
a) it is based on an underlying asset of the kind set out in the Table to this Schedule or has the equivalent effect to such an instrument; and
b) in the case of—
i) an over-the-counter instrument, it is capable of being readily closed out and is entered into with a counterparty for which the relevant criteria have been approved by the Registrar subject to such conditions as he or she may determine;
ii) an instrument referred to in item 16(5)(d) of that Table, it is listed; or
iii) any other instrument, it is regularly traded on a licensed stock exchange in the Republic, or on any other financial market in the Republic approved by the Registrar subject to such conditions as he or she may determine.
3. Kinds of assets

The kinds of assets contemplated in section 31(1)(b), are those set out in the following Table:

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description of assets</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>Bank notes and coins, including Krugerrand coins of all denominations, issued or caused to be issued in terms of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989)</td>
</tr>
<tr>
<td>2)</td>
<td>A credit balance in an account with, or a deposit, including a negotiable deposit or a bill, accepted by, or a promissory note issued by, an institution registered under the Banks Act, 1990 (Act No. 94 of 1990), or the Mutual Banks Act, 1993 (Act No. 124 of 1993)</td>
</tr>
<tr>
<td>3)</td>
<td>Public deposits with the Corporation for Public Deposits established by section 2 of the Corporation for Public Deposits Act, 1984 Act No. 46 of 1984)</td>
</tr>
<tr>
<td>4)</td>
<td>Securities issued by, and loans made to, the Government of the Republic in terms of section 19 of the Exchequer Act, 1975 (Act No. 66 of 1975)</td>
</tr>
<tr>
<td>5)</td>
<td>Securities and loans guaranteed by a Minister of the Republic under section 35 of the Exchequer Act, 1975.</td>
</tr>
<tr>
<td>6)</td>
<td>Securities issued or guaranteed by, and loans made to or guaranteed by, a body, council or institution under the repealed Provincial Government Act, 1961 (Act No. 32 of 1961)</td>
</tr>
<tr>
<td>7)</td>
<td>Securities issued by, and loans made to, the Local Authorities Loans Fund Board under the repealed Local Authorities Loans Fund Act, 1984 (Act No. 67 of 1984)</td>
</tr>
<tr>
<td>8)</td>
<td>Securities issued or guaranteed by, and loans made to or guaranteed by, the Rand Water Board under the Rand Water Board Statutes (Private) Act, 1950 (Act No. 17 of 1950)</td>
</tr>
<tr>
<td>9)</td>
<td>Securities issued or guaranteed by, and loans made to or guaranteed by, Eskom under the Eskom Act, 1987 (Act No. 40 of 1987)</td>
</tr>
<tr>
<td>10)</td>
<td>Securities issued or guaranteed by, loans made to or guaranteed by, and deposits with, the Land and Agricultural Bank of South Africa under the Land Bank Act, 1944 (Act No. 13 of 1944)</td>
</tr>
<tr>
<td>11)</td>
<td>Securities issued or guaranteed, and loans raised or guaranteed, under the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989)</td>
</tr>
</tbody>
</table>
| 12)      | Securities and loans, n.e.s., which are—  
   a) issued by or made to a body corporate established by a law of the Republic; and  
   b) approved by the Registrar for the purposes of this Schedule generally by notice on the official web site subject to the conditions determined by the Registrar and specified in
the notice.

13) Securities issued by—
   a) the government of;
   b) a local authority in; or
   c) a body corporate established by a law of,
   a territory forming part of the Republic but which territory at any time before 27 April 1994
did not form part of the Republic, which securities have been approved by the Registrar for
the purposes of this Schedule generally by notice on the official web site and subject to the
conditions determined by the Registrar and specified in the notice.

14) Immovable property in the Republic.

15) Motor vehicles, furniture and office equipment, including computer equipment, used by
the long-term insurer concerned in the course of its business in the Republic.

16) Shares and securities issued by a company incorporated in the Republic.

2) Shares, debentures and depository receipts which are—
   a) issued by an institution incorporated outside the Republic; and
   b) listed on a licensed stock exchange in the Republic.

3) Linked units—
   a) in respect of institutions one or more of which is or are incorporated outside the
   Republic; and
   b) which are listed on a licensed stock exchange in the Republic.

4) Loan stock listed on a licensed stock exchange in the Republic issued by a company
   incorporated in the Republic.

5) a) Listed –
   i) securities issued by a government of a country other than the Republic; or
   ii) securities and shares issued by an institution incorporated outside the
       Republic
   b) A credit balance in an account with, or a deposit, including a negotiable certificate
      of deposit or a bill, accepted by, an institution incorporated outside the Republic,
      which would have been a bank in terms of the Banks Act, 1990, if it were
      incorporated in the Republic.
   c) Units which are derived from or linked to one or more assets referred to in
      paragraphs (a) and (b).
   d) Derivatives and margin deposits on the assets referred to in paragraphs (a) and
      (b).

17) Participatory interests in a collective investment scheme registered in terms of the
    Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);

18) Derivatives and the margin deposit in the Republic.

19) Claims secured—
   a) by mortgages over immovable property in the Republic; and
   b) solely by the policy benefits which are to be provided in the Republic by the long-term
      insurer in terms of a long-term policy.
20) Other claims, n.e.s., against –
   a) a long-term insurer in terms of a long-term policy;
   b) a person in the Republic, excluding premiums due and payable to the long-term insurer
      in respect of long-term insurance business carried on in the Republic; and
   c) a body corporate and any stock or shares in a body corporate which is not
      incorporated and registered in the Republic but which, in the opinion of the Registrar,
      carries on business in the Republic and which has been approved by the Registrar
      generally by notice on the official web site and subject to the conditions determined by
      the Registrar and specified in the notice.

21) Premiums due and payable to the long-term insurer in respect of long-term insurance
    business carried on in the Republic.

[Schedule 1(3) amended by section 106 of Act No. 45 of 2013]

2.[repealed]

1. Definitions

[Schedule 2 repealed by the Insurance Amendment Act, 2003, Act No. 17 of 2003]]

3. Calculation of values of assets, liabilities and capital adequacy requirement

1. Definition

(Sections 30 and 31)

For the purposes of this Schedule ‘approved reinsurance policy’ means –
   a) for the purposes of calculating the contingent liabilities of a long-term insurer under
      unmatured long-term policies in terms of which the policy benefits are to be provided –
      i) in the Republic, any proportional reinsurance policy in terms of which the
         reinsurer is liable for the liabilities under unmatured policies which remain in
         force until the contingent liability under unmatured policies has expired,
         entered into by the long-term insurer with –
         aa) another long-term insurer registered to do long-term business of the
             same class, only if that reinsurance policy is also to be discharged in the
             Republic; or
         bb) another insurer approved by the Registrar to the extent and subject to
             the conditions determined by the Registrar; or
         cc) any reinsurance effected prior to 1 January 1952, and relating to long-
             term policies issued before that date; or
      ii) outside the Republic, a reinsurance policy relating to the contingent liabilities
          and capital adequacy requirement concerned; or
   b) for the purposes of calculating the liabilities of a long-term insurer other than
      contingent liabilities under unmatured long-term policies, any reinsurance.
2. Calculation of values

The values of assets, liabilities and the capital adequacy requirement shall be deemed to have been calculated in terms of this Schedule if the requirements set out in this Schedule and the requirements prescribed by the Registrar, after consulting the Actuarial Society of South Africa, have been complied with in making the calculations.

3. Effect of reinsurance

The contingent liabilities under unmatured policies shall be the net of contingent liabilities covered by approved reinsurance policies.

4. Amounts to be disregarded

For the purposes of the calculation of the value of assets –

a) only such assets actually held by the long-term insurer or those approved by the Registrar in terms of section 34(1)(a) and (b), may be taken into account; and

b) there shall be disregarded –

i) an amount, excluding a premium in respect of a long-term reinsurance policy, which remains unpaid after the expiry of a period of 12 months from the date on which it became due and payable;

bb) any amount of premium that is due and payable, including a premium debited to an intermediary or a deferred instalment of a premium that remains unpaid to an insurer (irrespective of whether or not the premium has been paid to an intermediary), after the expiry of a period of 90 days from the date on which it became due and payable in terms of the long-term policy, but excluding a premium in respect of a long-term reinsurance policy;

ii) an amount representing administrative, organisational or business extension expenses incurred directly or indirectly in the carrying on of long-term insurance business;

iii) an amount representing goodwill or an item of a similar nature;

iv) an amount representing a negative liability in respect of a long-term policy in terms of which the long-term insurer concerned provides or undertakes to provide a policy benefit: Provided that this provision shall not be construed as precluding the deduction of a negative liability in respect of a long-term policy from liabilities;

v) an amount representing a prepaid expense or a deferred expense; and

vi) an amount representing a reinsurance contract in terms of which the long-term insurer is the policyholder, except to the extent that it represents a claim against a reinsurer in terms of the reinsurance contract.
5. Calculation subject to certain provisions

For the purposes of the calculation of the value of contingent liabilities –
   a) where a portion of a future premium is not contractually payable but can become payable at the option of the policyholder, such portion of a future premium and the benefits purchased thereby shall be disregarded, unless it causes an increase in the net liability, in which case it shall be valued; and
   b) no allowance shall be made for potential profits to be earned from long-term insurance policies which the long-term insurer may enter into in future.

6. Registrar may reject certain values

Notwithstanding paragraph 2, if the Registrar is not satisfied that the value of an asset, a contingent liability or the capital adequacy requirement calculated in terms of this Schedule reflects a proper value, the Registrar may –
   a) direct the insurer to appoint another person, at the cost of the insurer, to place a proper value on that asset, contingent liability or capital adequacy requirement; or
   b) direct the long-term insurer to calculate the value in another manner which the Registrar determines and which will produce a proper value.

7. Valuation of other liabilities

1) The liabilities of a long-term insurer, other than its contingent liabilities under long-term policies, shall be determined in accordance with financial reporting standards applicable to public companies.

   [Sub-item 1 amended by section 107 of Act No. 45 of 2013]

2) Notwithstanding subparagraph (1), any liability of a long-term insurer in respect of which its creditor has waived any right to have the obligation discharged until all obligations to other creditors have been discharged in full, shall be valued in a manner and for an amount determined by the long-term insurer and approved by the Registrar.

4. Repeal and amendment of laws

Repeal and amendment of laws

<table>
<thead>
<tr>
<th>Act no. and year</th>
<th>Short title</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>27 of 1943</td>
<td>Insurance Act, 1943</td>
<td>The whole, excluding</td>
</tr>
</tbody>
</table>
section 60(1)(f)

19 of 1945  Insurance (Amendment) Act, 1945 The whole
73 of 1951  Insurance (Amendment) Act, 1951 The whole
24 of 1956  Pension Funds Act, 1956 Section 39
25 of 1956  Friendly Societies Act, 1956 Section 50
79 of 1959  Insurance Amendment Act, 1959 The whole
10 of 1965  Insurance Amendment Act, 1965 The whole
41 of 1966  Insurance Amendment Act, 1966 The whole
65 of 1968  Financial Institutions Amendment Act, 1968 Sections 1 to 3, inclusive
39 of 1969  Insurance Amendment Act, 1969 The whole
23 of 1970  Financial Institutions Amendment Act, 1970 Section 1
75 of 1970  Second Financial Institutions Amendment Act, 1970 Section 1
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104 of 1993  Financial Institutions Second Amendment Act, 1993 Sections 1 to 20, inclusive
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<tr>
<td>140 of 1993</td>
<td>Revenue Laws Amendment Act, 1993</td>
</tr>
<tr>
<td>54 of 1996</td>
<td>Insurance Amendment Act, 1996</td>
</tr>
<tr>
<td>31 of 1997</td>
<td>Insurance Amendment Act, 1997</td>
</tr>
</tbody>
</table>
Policyholder Protection Rules

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Policyholder Protection Rules
Policyholder Protection Rules, 2001
Policyholder Protection Rules under the Long-Term Insurance Act, 1998

The Minister of Finance has under Section 62 of the Long-Term Insurance Act, 1998, made the Policyholder Protection Rules set out in the Schedule.

These Policyholder Protection Rules shall come into operation on 1 July 2001.

I. Definitions and Purpose of the Rules
1. Definitions

In these Rules, the Act means the Long-term Insurance Act, 1998 (Act No 52 of 1998), any word or expression to which a meaning has been assigned in the Act, including the regulations promulgated under section 72 of the Act, shall bear that meaning and, unless the context otherwise indicates —

"cancellation"
in respect of a policy, or any part thereof, means an unilateral act of discontinuance of the policy, or of any such part thereof, by the policyholder;

"compliance officer"
in relation to an insurer, means the public officer of the insurer or a person appointed as a compliance officer by the public officer;

"effective date"
in relation to an insurance transaction, means the date on which the entering into, variation or termination of any such transaction becomes effective;

"ensure"
in relation to a person or body and any matter mentioned in a provision of these Rules, means to take any necessary steps in order that the clear objective of the provision is achieved;

"fund policy"
means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits for the purpose of funding in whole or in part the liability of a fund to provide benefits to its members in terms of its rules, other than such a contract relating exclusively to a particular member of the fund or to the surviving spouse, children, dependants or nominees of a particular member of the fund; and includes a reinsurance policy in respect of such a contract;

"group scheme"
means a scheme or arrangement which provides for the entering into of one or more policies, other than an individual policy, in terms of which two or more persons without an insurable interest in each other, for the purposes of the scheme, are the lives insured, but excluding fund
policies;

"inspection" means any inspection contemplated in the Inspection of Financial Institutions Act, 1998 (Act No 80 of 1998);

"insurance transaction" means the entering into or termination of a policy and includes variations resulting in the change to the premium, benefits or the term of a policy excluding any contractually predetermined or determinable variation;

"Insurer" means a long-term insurer, but excludes the insurance business conducted between insurers;

"Intermediary" means any representative or independent intermediary;

"policy" means a long-term policy bid not a reinsurance policy;

"policyholder" includes any prospective policyholder and individual members of a retirement annuity fund and preservation fund;

"replacement policy" means a policy entered into by a policyholder, wholly or partially in replacement of any other policy, within a period of four months before or after the termination of such other policy.

2. Purpose of the Rules

The purposes of disclosures referred to in these Rules are to enable a policyholder to make informed, decisions in regard to long-term insurance products and to ensure that intermediaries and insurers conduct business honestly and fairly, and with due care and diligence.

II. Rules on Disclosure

3. Principles of disclosures

1) The following shall apply to disclosures contemplated in these Rules:
   a) The intermediary or insurer, as applicable, shall bear the onus of proving that a disclosure has been made.
   b) Disclosures must be in plain language and structured so as to promote easy comprehension and to avoid uncertainty or confusion. Any written or printed disclosures, including any policy or policy variation which may be issued to policyholders, must be issued in a clear and readable print size, spacing and format
   c) Disclosures shall be made at an appropriate time and need only be made in respect
of significant or material transactions and may be made in writing, orally, using any appropriate electronic medium or by telefax.

d) An insurer or intermediary, as appropriate, shall ensure that they confirm any disclosures required to be made in terms of these Rules to the policyholder in writing or using any appropriate electronic medium or by telefax, if made orally within 30 days after such disclosure.

e) Disclosures need not be duplicated or repeated to the same policyholder unless material or significant changes, which will affect that policyholder have occurred or the transactions contemplated make it desirable or necessary.

f) Disclosures may be made using standard forms or format.

4. Obligatory disclosures

4.1) Contact stage

An intermediary shall ensure before dealing with a policyholder in respect of an insurance transaction, that at least the following disclosures, where applicable, are made once to the policyholder, in writing and where made orally, to be confirmed in writing or using any appropriate electronic medium or by telefax:

a) the Statutory Notice as contemplated in Part VIII must be given without any amendments except for details that are furnished in terms of the Statutory Notice;

b) full names, titles and designations of intermediaries; postal and physical addresses of intermediaries’ head offices and relevant service offices; telephonic and electronic communication details of contact persons;

c) legal status of the intermediary; confirmation of the contractual relationship with an insurer or various insurers; disclosure of the fact that the intermediary directly or indirectly holds more than 10% of an insurers shares (if applicable), has received more than 30% of his total commission and remuneration from a particular insurer in the preceding calendar year (if applicable), or is an associated company of the insurer (if applicable);

d) concise details of relevant experience;

e) insurer and product accreditation details;

f) whether they hold professional indemnity insurance or not; and

g) any fee the policyholder pays to the intermediary.

4.2) Proposal or Quotation stage

An insurer shall ensure that at least the following disclosures are made to the policyholder in writing and where made orally, to be confirmed in writing or using any appropriate electronic medium or by telefax, as soon as is practical but before the acceptance stage—

a) the Statutory Notice as contemplated in Part VIII must be given without any amendments except for details that are furnished in terms of the Statutory Notice, in cases where an intermediary is not involved in the insurance transaction;

b) full registered name and abbreviated name, postal and physical addresses of the head office and issuing office, telephonic and electronic access numbers and communication details of service departments;

c) the name and contact details of the compliance department or officer of the insurer and details of procedures for the resolution of complaints by policyholders, including complaints in respect of intermediaries,
d) claims notification procedures;
d) name, class or type of policy involved;
f) nature and extent of benefits, the manner of deriving or obtaining thereof and manner of payment or furnishing of benefits as the case may be; where the policy has an investment component, concise details must be provided of the manner in which the policy's value is determined, including participation in surplus or bonuses of any kind; for purposes of disclosure it is not required to provide comprehensive investment and actuarial information;
g) nature and extent of monetary obligations assumed by the policyholder, manner of payment of premiums and the consequences of non-payment of such premiums;
h) mortality, morbidity or other loadings, guarantees, exclusions, waiting periods or other special terms or conditions; for purposes of disclosure it is not required to provide comprehensive calculations and actuarial information;
i) where premiums are to be contractually increased, the amount of the increased premium shall be shown for the first five years and thereafter on a five-year basis, but not exceeding twenty years;
j) minimum guaranteed values shall be shown where applicable; where illustrative values are used in the marketing of the product, such values shall show growth and surrender values in respect of the policy every year for the first five years and every fifth year thereafter for the term of the policy;
k) in the case of policies which are retirement annuities, where illustrative fund values are shown, these values will be illustrative fund values, in place of surrender values, until the earliest retirement date;
l) all values shall be shown in monetary terms;
m) any relevant assumptions in respect of amounts and costs shall also be disclosed;
n) commission and remuneration payable to the intermediary; where the intermediary is a representative, the maximum commission must be disclosed together with a note stating that the representative may receive other benefits from the insurer;
o) where by virtue of the product structure, charges and fees are not pre-determinable, the calculation basis of the charges and fees shall be stipulated where the marketing material positioned the product as anything other than a risk-only product, all charges and fees to be levied against the policy, including the amount and incidence of these charges and fees, which shall be disclosed separately; policies with no investment element may leave this blank; where the specific structure entails a 'chain' of one or more underlying financial instruments, the net investment amount that is ultimately invested on behalf of the policyholder shall be disclosed;
p) the fact that the policyholder may instruct the insurer to cancel an insurance transaction and refund all premiums paid in respect of the transaction, within 30 days of receipt of the Summary contemplated in section 48 of the Act (or such longer period as the insurer may allow), provided no benefit has yet been paid or claimed or an event insured against has not yet occurred; such disclosure must, where applicable, include details of any amounts that the insurer may deduct from the premiums paid before refunding them as well as the manner in which the cancellation instruction is to be communicated to the insurer; where the policy type or terms make it unlawful or inappropriate to cancel the transaction, this fact must be disclosed; and
q) in respect of any new policy, an explanation that, in the event that it is being purchased to replace another policy, this has various potentially detrimental consequences, which should have been disclosed to the policyholder by the intermediary concerned, where applicable.
4.3) **Acceptance stage**

As regards the policy involved, an insurer shall ensure that it makes at least the following disclosures to the policyholder, as soon as is practical after an insurance transaction is concluded—

a) full registered name and abbreviated name, postal and physical addresses of the head office and issuing office, telephonic and electronic access numbers and communication details of service departments;

b) the name and contact details of the compliance department or officer of the insurer and details of procedures for the resolution of complaints by policyholders, including complaints in respect of intermediaries;

c) claims notification procedures;

d) name, class or type of policy involved;

e) nature and extent of benefits, the manner of deriving or obtaining thereof and manner of payment or furnishing of benefits as the case may be; where the policy has an investment component, concise details must be provided of the manner in which the policy’s value is determined, including participation in surplus or bonuses of any kind, for purposes of disclosure it is not required to provide comprehensive investment and actuarial information;

f) nature and extent of monetary obligations assumed by the policyholder, manner of payment of premiums and the consequences of non-payment of such premiums,

g) mortality, morbidity or other loadings, guarantees, exclusions, waiting periods or other special terms or conditions; for purposes of disclosure it is not required to provide comprehensive investment and actuarial information;

h) where premiums are to be contractually increased, the amount of the increased premium shall be shown for the first five years and thereafter on a five-year basis, but not exceeding twenty years;

i) minimum guaranteed values shall be shown where applicable, where illustrative values are shown, such values shall show growth and surrender values in respect of the policy every year for the first five years and every fifth year thereafter for the term of the policy;

j) in the case of policies which are retirement annuities, illustrative fund values are shown in place of surrender values until the earliest retirement date;

k) all values shall be shown in monetary terms;

l) any relevant assumptions in respect of amounts and costs shall also be disclosed;

m) commission and remuneration payable to the intermediary; where the intermediary is a representative, the maximum commission must be disclosed together with a note stating that the representative may receive other benefits from the insurer;

n) where by virtue of the product structure, charges and fees are not pre determinable, the calculation basis of the charges and fees shall be stipulated; where the marketing material positioned the product as anything other than a risk-only product, all charges and fees to be levied against the policy, including the amount and incidence of these charges and fees, which shall be disclosed separately., policies with no investment element may leave this blank; where the specific structure entails a ‘chain’ of one or more underlying financial instruments, the net investment amount that is ultimately invested on behalf of the policyholder shall be disclosed;

o) the fact that the policyholder may instruct the insurer to cancel an insurance transaction and refund all premiums paid in respect of the transaction, within 30 days of receipt of the Summary contemplated in section 48 of the Act (or such longer period as the insurer may allow), provided no benefit has yet been paid or
claimed or an event insured against has not yet occurred; such disclosure must, where applicable, include details of any amounts that the insurer may deduct from the premiums paid before refunding them as well as the manner in which the cancellation instruction is to be communicated to the insurer; where the policy type or terms make K unlawful or inappropriate to cancel the transaction, this fact must be disclosed;

p) in respect of any new policy, an explanation that, in the event that it is being purchased to replace another policy, this has various potentially detrimental consequences, which should have been disclosed to the policyholder by the intermediary concerned, where applicable;

q) those of the representations made by or on behalf of the policyholder to the insurer which were regarded by that insurer as material to its assessment of the risks under the policy; and

r) the events in respect of which the policy benefits are to be provided and the circumstances (if any) in which those benefits are not to be provided.

4.4) Any disclosure under Rule 4.3 needs not be repeated if such disclosure was made under Rule 4.2, provided that the information has not changed.

5. Other disclosures

5.1) The provisions of this Part shall not be construed as preventing any insurer or intermediary involved in any particular case from making any other or additional disclosures to a policyholder, where such disclosures will promote the better achieving of the objects of these Rules and are deemed necessary or expedient in the circumstances of the particular case, or to comply with any other code of business conduct provisions applying lawfully to any such party.

5.2) Any subsequent changes to information referred to in Rules 4.1(b) and 4.2(b), must be communicated in writing or using any appropriate electronic medium or by telefax, to the policyholder.

5.3) In respect of any policy with a market related investment component, an insurer must, on request, provide the policyholder with information concerning the policy’s investment performance history over periods and at intervals which are reasonable with regard to the type of policy concerned.

6. Standardised disclosures

6.1) Without prejudice to the provisions of Rules 3 and 4, an insurer, or any Intermediary with the concurrence of the insurer, may draft standardised disclosure documentation in respect of any particular class or type of policy or insurance transaction, to be used for the purpose of complying with the provisions of this Part: Provided that –

a) such documentation is current on any relevant effective date; and

b) such use does not exonerate any insurer or intermediary from compliance with any disclosure requirement of this Part.
III. Rules on Replacement Policies

7. Requirements in respect of replacement policies

7.2) No insurer or intermediary may advise or ask a policyholder to terminate an existing policy and replace it wholly or partially with a replacement policy, without disclosing to the policyholder the potential implications, cost and consequences of such a replacement, including –

- fees and charges being paid twice;
- the influence of age on the premium payable;
- loadings as a result of health that may now be applicable;
- any tax advantage lost;
- waiting period for claims under new policy;
- the investment risk under the new policy compared to the old policy;
- the fact that unrecovered expenses of old policy may be recouped (cost of cancellation);
- the influence of Regulation 4.2 of the regulation issued in terms of the Long-term Insurance Act, 1998,
- future insurability; and
- risk benefits being lost due to cancellation.

7.2) When an intermediary submits an application for a replacement policy to an insurer on behalf of a policyholder, the intermediary shall ensure that the application is identified to the insurer as an application for a replacement policy. The intermediary shall not be entitled to receive any commission or other remuneration from the insurer in respect of the replacement policy until such time as the intermediary satisfies the insurer that the provisions of Rule 7.1 have been complied with.

7.3) The new insurer shall ensure that the previous insurer is notified that its policy has been, or is going to be, terminated as a result of the application for a replacement policy. This notification must be made no later than five working days from the date of submission of the application for the replacement policy. The previous insurer may then contact the policyholder to establish whether the provisions of this Part have been complied with and to advise the policyholder of his or her rights.

7.4) Any person who believes that any policy qualifies as a replacement policy and that the policyholder has not been duly advised, or that the insurers involved have not been notified, may lodge a written complaint to the insurer which issued the new policy or to the Registrar who shall refer the complaint to such insurer.

7.5) The new insurer shall within six weeks after the receipt of the complaint take steps to establish the facts and, if satisfied that the policy qualifies as a replacement policy and that the policyholder was not given appropriate or correct advice, or that the insurers involved were not properly notified, take disciplinary steps against the intermediary involved (where applicable), including reclaiming any commission or other remuneration paid whether or not the policy survives, or terminating the mandate of that intermediary, to prevent a recurrence of this type of transaction, after first giving that intermediary a reasonable opportunity to respond to the allegations.
7.6) The new insurer shall offer the policyholder the right of cancellation in accordance with these Rules from the date that all internal procedures folio in terms of this Part have been final.

7.7) The insurer shall report the findings and actions in writing or using any appropriate electronic medium or by telefax, to the complainant and to the Registrar, who may then elect to take any further action in terms of the law.

7.8) The provisions of Rule 7 are also applicable where individual policies are replaced by group scheme policies.

IV. Rules on cancellations of Policies and cooling off

8. Cancellations of policies and cooling off

8.1) A policyholder may –
   a) in any case where no benefit has yet been paid or claimed or an event insured against has not yet occurred; and
   b) within a period of 30 days of receipt of the summary contemplated in section 48 of the Act, or from a reasonable date on which it can be deemed that the policyholder received the summary referred to above, or the date that an insurer has completed the investigation referred to in Rule 7(5), cancel any insurance transaction, excluding any policy or variation which only lasts for 30 days or less, by written cancellation notice sent to the insurer. All premiums or moneys paid by the policyholder to the insurer up to the date of receipt of the cancellation notice or received at any date thereafter in reaped of the cancelled or varied policy, shall be refunded to the policyholder, subject to the deduction of the cost of any risk cover actually enjoyed and any market loss where the market value of the investments made has decreased in the intervening period due to prevailing market conditions.

8.2) An insurer shall ensure that it complies with the request for cancellation received after the 30 day notice period, but not later than 60 days after the effective date where the policyholder can prove that a cancellation notice not received by the insurer, was completed in good faith and communicated to the insurer within the 30 day notice period.

8.3) Where a particular policy can in law not be cancelled, or by virtue of its terms and nature not capable of being cancelled, such fact shall be disclosed to the policyholder by the intermediary or the insurer before entering into of any insurance transaction in respect of the policy.

V. Rules on Group Schemes and Fund Policies

9. Group schemes

9.1) An insurer shall, in addition to the disclosures made under Rule 4, ensure that in the case of any voluntary group scheme:
Policyholder Protection Rules

1. a) A policy summary contemplated in section 48 of the Act is made available to all participating members of the group scheme together with details of the premium and any other amount payable by any member of the group scheme, the portion of such premium or amount to be received by the insurer, and a statement confirming that the rules or conditions of the scheme are not inconsistent with the provisions of the Act or with the terms of the policy; and

b) A membership certificate is issued to all members of the scheme containing details of the member, the policy benefits and premium obligations; such certificate shall be amended and reissued from time to time as may be necessary.

VI. General Rules

10. Fund policies

10.1) An insurer shall, in addition to the disclosures made under Rule 4, issue and deliver a fund policy to the principal officer of the fund, the trustees of the fund or any other person managing the fund, not later than six months after the effective date, or the commencement date of such policy if such policy commences after the effective date.

b) Notwithstanding the provisions of Rule 10(1)(a), an insurer may, with the approval of the Registrar and subject to such conditions as the Registrar may determine, postpone the issue of a fund policy.

10.2) A fund policy shall incorporate the conditions relating to discontinuance and shall include the following:

a) If the fund is to receive a cash sum, the basis of calculation of such cash sum and the conditions applicable to the payment thereof;

b) if the fund is to receive assets, the basis on which the value of such assets will be determined and the conditions applicable to the transfer thereof;

c) if the fund is to receive a paid-up policy, the basis of calculation of the paid-up value and the conditions applicable to the payment of the paid-up benefits;

d) if the fund is to receive any benefit other than that contemplated in subparagraphs (a) and (c), full details of such benefit; and

e) where applicable, full details of all charges to be levied on termination.

11. Special duties of Registrar

The Registrar—

a) may take any steps deemed necessary or expedient to inform policyholders and the public in general of the existence, ambit and meaning of these Rules and of available avenues or mechanisms for lodging of complaints;

b) shall ensure that copies of these Rules and of any guidelines referred to in paragraph 11(c) are readily available at the Registrar’s office for distribution at the
Policyholder Protection Rules

request of any person at a fee per copy as determined by the Registrar may from time to time, with the concurrence of the Advisory Committee, issue non-binding –

i) guidelines on the interpretation and implementation of these Rules, and

ii) best conduct directives for insurers and intermediaries;

shall –

i) annually compile a compliance review summarising the import of reports referred to in Rule 15.6 and containing advice deemed necessary or expedient in connection with the achieving of the objects of these Rules, including recommendations on the amendment of these Rules or of the Act, including advice not specifically connected to such reports; and

ii) submit such compliance review to the Advisory Committee for consideration.

12. Consequences of non-compliance

12.1) Where a policyholder considers that a provision of these Rules has been contravened or not complied with by any party involved in a policy held by him or her, such policyholder may lodge a written complaint to the party involved and, if such complaint is not resolved to the satisfaction of the policyholder, to the Registrar. Provided that the foregoing provisions of this subrule shall with the necessary changes also apply to any insurer, intermediary, or any other interested member of the public who or which considers that any provision of these Rules has in connection with any policy and in any particular case been contravened or not complied with.

12.2) The Registrar shall, on receipt of any such complaint, require the insurer or intermediary by written notice to provide the Registrar within a period determined by the Registrar with a full reply to the complaint.

12.3) The Registrar may, whether an inspection has been carried out or not, and where a breach of these Rules has been established to the Registrar’s satisfaction, after informing the insurer or intermediary involved of the intention so to act and affording them a reasonable opportunity to respond thereto, by written notice require any party involved to take particular corrective steps in accordance with a specific timetable, and the Registrar may take any steps in connection with the breach which is available to the Registrar in law.

12.4) A party involved to which a notice contemplated in Rule 12.2 and 12.3 has been directed, shall within the period determined by the Registrar in the notice, or within any extended period determined by the Registrar on written application by the party, comply with the requirements stated in the relevant notice.

13. Waiver of rights

No waiver by any policyholder of any fight or benefit granted by these Rules, shall be valid.
14. Penalties

An insurer or intermediary who contravenes or fails to comply with a provision of these Rules shall be guilty of an offence and on conviction liable to a penalty or fine referred to in section 66(1)(c) or 67(1)(c), as the case may be, of the Act.

15. Additional duties of insurers and intermediaries

15.1) a) Subject to paragraph (b), an insurer must, where an agreement is to be entered into with an intermediary for the rendering of services as intermediary, furnish the intermediary with a written mandate or authority to market products of the insurer, setting out the terms and conditions of such mandate or authority.

b) An insurer must in the case of an agreement contemplated in paragraph (a) existing immediately prior to the date referred to in section 62(5) of the Act, and which does not contain any written mandate or authority contemplated in paragraph (a), within 30 days after the said future date furnish such intermediary with such written mandate or authority.

15.2) a) Insurers and intermediaries shall ensure that records are kept of all disclosures made or advice given by them as contemplated in these Rules. These records must be kept until three years after maturity or termination of the policy and may be kept in an appropriate electronic or recorded format.

b) Duplicate copies of such disclosure documents are to be provided to the policyholder on request.

c) The insurer and intermediaries are not required to keep the disclosure records themselves but must ensure that they are available for inspection within 7 days from the Registrar’s request.

15.3) An insurer shall ensure that a summary of every policy issued by it, or any variation thereof, is reducible to a written or printed form, and issued to the policyholder within 60 days as contemplated in section 48 of the Act.

15.4) An insurer shall ensure that, where it repudiates a claim for a benefit under a policy or where it disputes the quantum of the benefit claimed, the person entitled to claim the benefit is notified in writing or using any appropriate electronic medium or by telefax, of the reasons for the repudiation or the calculation of the quantum, as the case may be. The person entitled to claim the benefit may within not less than 90 days after the date of such notification, make representations to the insurer in respect of the insurer’s decision. Nothing in this paragraph shall be construed as limiting any contractual or other right any party may have in regard to any claim for policy benefits.

15.5) Insurers and intermediaries shall, within 6 months from the date of coming into operation of these Rules, ensure that they provide –

a) for monitoring systems to measure compliance with these Rules;

b) where necessary, for information or training courses for persons employed or
contracted, in respect of the implementation by them of these Rules; 
c) for the accreditation of all intermediaries, within 6 months of such person 
commencing the selling or servicing of such product, of the relevant knowledge, competency and proficiency of such persons in the products that they may market, and 
d) for the ongoing recording of the knowledge, competency and proficiency of accredited persons,

15.6) Every insurer shall, within a period of four months after the end of every financial year of the insurer, submit a written report to the Registrar, in respect of the period of every such financial year, on – 
a) all steps taken by the insurer to ensure compliance with the provisions of these Rules, and the reasons for any non-compliance which may have occurred; 
b) problems experienced by the insurer and any of its representatives with the interpretation or implementation of these Rules, and suggestions or recommendations for improvements or other amendments; and 
c) a summary of the number and type of complaints received by the insurer in connection with the implementation of these Rules, the type of steps taken in connection therewith.

15.7) The practice of signing blank or uncompleted forms by a policyholder, whereby someone else fills in the details at a later stage, shall be an offence by the insurance parties under these Rules.

VII. Special Provisions

16. Special provisions regarding Marketing of products directly to the public

16.1) **Telephone Sales**

Telesales personnel must disclose to the policyholder that they receive commission (where applicable) and the amount thereof.

16.1.1) For purposes of this Part, the sequence of Rule 4.1 and 4.2 need not be followed in the sequence presented in the rules. The sequence may be changed provided that all the disclosures are made to the prospective policyholder before the telephone interaction comes to an end. It is a requirement that the call must be voicelogged, and full disclosure be made to the policyholder in writing or using any appropriate electronic medium or by telefax, after the telesale. If the insurer or intermediary is not in a position to provide a copy of the voicelogging, it will be deemed that the disclosures were never made.

16.1.2) The provisions of Rule 4.2(c) need only be provided to the policyholder in the written disclosures which are provided to the policyholder after the sale. During the transaction it is sufficient to indicate that the insurer has a compliance officer or compliance department and to provide basic contact details e.g. telephone number or address. The direct marketers are not obliged to give the Statutory Notice with any amendments, and may dispense totally with the Statutory Notice if all the disclosures contemplated in the notice are made during the
transaction and are recorded in writing or using any appropriate electronic medium or by telefax, or voicelogged. In a direct marketing situation, the requirements of Rule 4.2(b) need not be disclosed. The details must be confirmed to the policyholder in writing after the sale.

16.1.3) The provisions of Rule 4.2(d), (i) and (0) may be abbreviated, provided that full details are provided in the written or using any appropriate electronic medium or by telefax, disclosures made to the policyholder after the sale. The abbreviated disclosure must give the prospective policyholder a clear appreciation of his or her financial commitments.

16.1.4) Where use is made of an infomercial advertisement, disclosure may be made in the advertisement. For the purposes of this paragraph an ‘infomercial’ is defined as meaning:
"An infomercial means advertising material of more than two minutes in duration broadcast in visual and/or audio form. It is usually presented in a programme format and promotes the interest of a person, product or service. It entails a direct offer of a product or service to the public in return for payment, and usually contains a demonstration of the use of the product or service concerned, and includes material known as tele-shopping, home shopping, direct marketing and direct sales”.

16.2) Marketing by means of Direct Mailing, Internet, Media Advertisements and Inserts (with application form), does not require the printing of separate documents for disclosure in terms of the Rules or Statutory Notice. It is not required to repeat any disclosures made in the text of the offer in any specific disclosure addendum or page.

16.3) Media Advertisements including Inserts, (without application form), Internet, Spot Television and Radio Advertising, which are designed to generate awareness will not be considered as part of the insurance transaction and therefore no disclosure is contemplated in terms of the Rides. Any contact by prospective policyholders will require the insurance parties involved to disclose in terms of the Rules applicable to telephonic sales.

VIII. Loans and Cessions

17. Policy loans and cessions

The insurer shall disclose to the policyholder:

a) on entering into a policy loan:
   • the interest of the loan at the time of entering into;
   • whether the interest rate on the loan fluctuates (if applicable); and
   • the repayment arrangements of the loan e.g. the amount the policyholder undertakes to pay in discharge of his obligations;

b) annually the amount of the policy loan in relation to the value of the policy;

c) annually the interest rate applicable to the policy loan and any change thereto;

d) when the loan is about to equal the value of the policy;

e) when the benefits under the policy cease as a result of the policy loan equaling the value of the policy; and
on receipt of notification of a cession:
- the fact that the cession is recorded in the insurer's records;
- the nature of the cession i.e. whether it is an outright cession or a cession in securing a debt and
- the name of the cessionary.

IX. Statutory Notice

18. Disclosure And Other Legal Requirements

(This notice does not form part of the Insurance Contract)

As a long-term insurance policyholder, or prospective policyholder, you have the right to the following information:

1) The intermediary (insurance broker or representative) dealing with you must at the earliest reasonable opportunity disclose:
   a) Name, physical and postal address and telephone number.
   b) Legal capacity: whether independent or representing an insurer or brokerage.
   c) Concise details of relevant experience.
   d) Insurance products that may be sold.
   e) Insurers whose products may be marketed
   f) Indemnity cover held – Yes/No.
   g) Shareholdings in insurers if 10% or more.
   h) Name of insurers from which the intermediary received 30% or more of total commission and remuneration during the past calendar year.
   (The intermediary must be able to produce proof of contractual relationship with and accreditation by the insurers concerned).

2) Your right to know the Impact of the decision you elect to make:
   a) The intermediary or insurer dealing with you must inform you of:
      The premium you may be paying.
      The nature and extent of benefits you may receive.
   b) If the benefits are linked to the performance of certain assets:
      How much of the premium will go towards the benefit?
      To what portfolio will your benefits be linked?
   c) The possible impact of this purchase on your finances.
   d) The possible impact of this purchase on your other policies (affordability).
   e) The possible impact of this purchase on your investment portfolio (affordability).
   f) The flexibility of changes you may make to the proposed contract.
   g) The contract terms of the product you intend to purchase.
   (it is very important that you are quite sure that the product or transaction meets your needs and that you feel you have all the information you need to make a decision.)
3) Your right when being advised to replace an existing policy.

You may not be advised to cancel a policy to enable you to purchase a new policy or amend an existing policy, unless:

   a) The intermediary identifies the policy as a replacement policy.
   b) The implications of cancellation of the policy are disclosed to you such as:
      The influence on your benefits under the old policy.
      The additional costs incurred with the replacement.
   c) The insurer which issued the original policy will contact you, you are advised to discuss the matter with its representative.

4) Your right to be informed by the insurer.

The insurer will forward you documentation confirming policy details as discussed in paragraph 2 of this Notice, which will also include:

   a) The name of the insurer.
   b) The product being purchased.
   c) The cost in Rands of the transaction and specifically:
      i) the loadings if any;
      ii) the initial expense; and
      iii) the amount of commission and other remuneration being paid to the intermediary.
   d) in the case of policies with an investment element, the ongoing expense and any other fees or charges payable.

   • The summary in terms of section 48 of the Long-term Insurance Act, 1998.
   • The contact number and address of the complaints and compliance officers of the insurer. (The insurer may disclose the above information on a generic basis with additional policyholder specific disclosure).

5) Your right to cancel the transaction

In most cases, you have a right to cancel a policy in writing within 30 days after receipt of the summary contemplated in section 48 from the insurer. The same applies to certain changes you may make to a policy. The insurer is obliged to confirm to you whether you have this right and to explain how to exercise it. Please bear in mind that you may not exercise if you have already claimed under the policy or if the event, which the policy insures you against, has already happened. If the policy has an investment component, you will carry any investment loss.

6) Important warning

   • It is very important that you are quite sure that the product or transaction meets your needs and that you feel you have all the information you need before making a decision.
   • It is recommended that you discuss with the intermediary or insurer the
possible impact of the proposed transaction on your finances, your other policies or your broader investment portfolio. You should also ask for information about the flexibility of any proposed policy.

- Where paper forms are required, it is advisable to sign them only once they are fully completed. Feel free to make notes regarding verbal information, and to ask for written confirmation or copies of documents.
- Remember that you may contact either the Long-term Insurance Ombudsman or the Registrar of Long-term Insurance, whose details are set out below, if you have any concerns regarding a product sold to you or advice given to you.

7) Particulars of Long-term Insurance Ombudsman

PO Box 45007
CLAREMONT
7735
Tel: (021) 674 0330
Fax: (021) 674 0951

8) Particulars of Registrar of Long-term Insurance

Financial Services Board
PO Box 35655
MENLO PARK
0102
Tel: (012) 428 8000
Fax: (012) 347 0221

(You may be requested to sign a copy of this document)

Policyholder Protection Rules, 2004
Policy Holder Protection Rules (Long Term insurance), 2004

30 September 2004

Department of Finance


TA Manuel, MP
Minister of Finance
1. Definitions

In these Rules

"the Act"
means the Long-term Insurance Act, 1998 (Act No. 52 of 1998), including the regulations promulgated under section 72 of the Act,

"the FAIS Act"
means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002) including any measure or decision referred to in the definition of "this Act" in section 1(1) of that Act, any word or expression to which a meaning has been assigned in the Act or the FAIS Act, bears, subject to context, that meaning and, unless the context otherwise indicates;

"advertising"
in relation to a direct marketer, means any written, printed, electronic or oral communication (including a communication by means of a public radio service), which is directed to the general public, or any section thereof, or to any client on request, by any such marketer, which is intended merely to call attention to the marketing or promotion of long-term insurance policies offered by the marketer, and which does not purport to provide detailed information regarding any such policy;

"cancellation"
in respect of a policy, or any part thereof, means an unilateral act of discontinuance of the policy, or any such part thereof, by the policyholder in accordance with these Rules;

"commencement date"
means the date on which these Rules become binding, as determined and published by the Minister in accordance with section 62(5) of the Act;

"direct marketer"
means an insurer who, in the normal course of business, carries on business in the form of direct marketing, but not in the capacity as an authorised financial services provider;

"direct marketing"
means the marketing of a policy by way of telephone, internet, media insert, direct or electronic mail in a manner which includes the required transaction requirement pertaining thereto, but excluding any advertising;

"effective date"
in relation to an insurance transaction, means the date on which the entering into, variation or termination of any such transaction becomes effective;

"ensure"
in relation to a person or body and any matter mentioned in a provision of these Rules, means to take any necessary steps in order that the clear objective of the provision is achieved;

"fund policy"
Policyholder Protection Rules

means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits for the purpose of funding in whole or in part the liability of a fund to provide benefits to its members in terms of its rules, other than such a contract relating exclusively to a particular member of the fund or to the surviving spouse, children, dependants or nominees of a particular member of the fund; and includes a reinsurance policy in respect of such a contract;

"insurance transaction"
means the entering into or termination of a policy and includes variations resulting in a change to the premium, benefits or the term of a policy excluding any contractually predetermined or determinable variation;

"insurer"
means a long-term insurer;

"intermediary"
means a representative referred to in the Act, and a person who qualifies as an independent intermediary in terms of the definition thereof in regulation 3(1) of the Regulations, and with whom an agreement has been entered into by an insurer in compliance with Rule 5(1)(a)(i);

"policy"
means a long-term policy ;

"policyholder"
includes any prospective policyholder and individual members of a retirement annuity fund and preservation fund;

"previous Rules"
means the Policyholder Protection Rules (Long-term Insurance), 2001, as published by GN No. R. 165 in Gazette No. 22085 of 23 February 2001;

"Regulations"

"transaction requirement"
means any application, proposal, order, instruction or other contractual information required to be completed for, or submitted to, an insurer by or on behalf of a policyholder and relating to an insurance transaction;

"writing"
includes communication by telefax or any appropriate electronic medium that is accurately and readily reducible to written or printed form; and "written" has a corresponding meaning.

2. Objective

The objective of these Rules is to ensure that policies as defined in Rule 1 are entered into, executed and enforced in accordance with sound insurance principles and practice in the
3. Application

1) These Rules, excluding Rules 11 and 13, do not apply to insurance business conducted between insurers.

2) Part III of these Rules only applies to an insurance transaction in respect of which the effective date is a date on or after the commencement date.

3) No provision of these Rules shall be construed as in any way affecting the duty of any person to comply with any applicable provision of the FAIS Act.

4. Basic Rules For Direct Marketers

1) A direct marketer must at all times render services honestly, fairly, and with due skill, care and diligence.

b) A direct marketer must—
   i) in making contact arrangements, and in all communications and dealings with a policyholder, act honourably, professionally and with due regard to the convenience of the policyholder; and
   ii) at the commencement of any contact, visit or call initiated by the direct marketer clearly explain the purpose thereof.

c) Representations made and information provided to a policyholder by a direct marketer—
   i) must be factually correct;
   ii) must be provided in plain language, avoid uncertainty or confusion and not be misleading;
   iii) must be adequate and appropriate in the circumstances of the relevant marketing, taking into account the level of knowledge of the policyholder;
   iv) must, where provided in writing or by means of standard forms or format, be in a clear and readable print size, spacing and format;
   v) must, as regards all amounts, sums, values, charges, fees, remuneration or monetary obligations mentioned or referred to therein, be reflected in specific monetary terms: Provided that where any such amount, sum, value, charge, fee, remuneration or monetary obligation is not reasonably determinable, its basis of calculation must be adequately described; and
   vi) need not be duplicated or repeated to the same policyholder unless material or significant changes affecting that policyholder occur, or the relevant direct marketer renders it necessary, in which case a disclosure of the changes to the policyholder must be made to the policyholder without delay before a transaction is concluded.

d) The direct marketer must disclose to the policyholder the existence of any circumstance which gives rise to an actual or potential conflict of interest in relation to direct marketing, and take all reasonable steps to ensure fair treatment of the
e) Direct marketing must be rendered in accordance with the contractual relationships and reasonable requests or instructions of the policyholder, which must be executed as soon as reasonably possible and with due regard to the reasonable interests of the policyholder which must be accorded appropriate priority over any interests of the direct marketer.

f) The direct marketer must not deal in any policy for own benefit, account or interest where the dealing is based upon advance knowledge of pending transactions for or with policyholders, or on any non-public information the disclosure of which would be expected to affect the costs of such policy to the policyholder.

2) A direct marketer must have appropriate procedures and systems in place to—
   i) record all verbal and written communications relating to the direct marketing to a policyholder as are contemplated in these Rules;
   ii) store and retrieve transaction documentation and all other documentation relating to the policyholder; and
   iii) keep the policyholder records and documentation safe from destruction.

b) Records may be kept in an appropriate electronic or recorded format, which are accessible and readily reducible to written or printed form.

c) Disclosure records and documentation pertaining thereto must, in any particular case, be kept for a period of at least five years after termination, to the knowledge of the direct marketer, of the relevant policy or, in any other case, after completion of the relevant marketing process, and must be available timeously upon request to the registrar for inspection, and copies thereof must at the request of a policyholder be furnished to such holder.

3) A direct marketer must, when rendering direct marketing to a policyholder, furnish the policyholder with the following particulars at the earliest reasonable opportunity but prior to the conclusion of a relevant insurance transaction: Provided that where provided orally, it must be confirmed in writing within 30 days:
   a) its business or trade name, and, unless contact was initiated by the policyholder, its telephone contact details;
   b) telephone contact details of the public officer of the direct marketer;
   c) name, class or type of policy involved and a reasonable and appropriate general explanation of the principles of the relevant contract and any information that would reasonably be expected to enable the policyholder to make an informed decision;
   d) the nature and extent of benefits for the policyholder, manner of deriving or obtaining, or payment or furnishing thereof, and the extent to which the policy is readily realisable or the funds concerned are accessible;
   e) any restrictions on or penalties for early termination or withdrawal from the policy, or other effects, if any, of such termination or withdrawal;
   f) charges and fees to be levied against the policy including the amount and frequency thereof and, where the policy has an investment component, the net investment amount ultimately invested for the benefit of the policyholder,
   g) commission, consideration, fees, charges or brokerages payable to the direct marketer (if any) by the policyholder or by any other person;
   h) on request, the past investment performance of the policy, where applicable, over periods and at intervals which are reasonable with regard to the type of policy involved;
   i) nature and extent of monetary obligations assumed by the policyholder (including
any anticipated or contractual escalations, increases or additions), manner of compliance therewith and consequences of non-compliance;

j) where provision is made for increase of premiums, abbreviated disclosures of such contractual increases;

k) concise details of any special terms and conditions, exclusions, waiting periods, loadings, penalties, excesses, restrictions or circumstances in which benefits will not be provided;

l) what cooling-off rights are offered and procedures for exercise thereof;

m) any material investment or other risks associated with the policy;

n) details of manner of instituting claims under the relevant policy;

o) any guaranteed minimum benefits or other guarantees where appropriate; and

p) details of manner of lodging complaints, and particulars of the Long-term Insurance Ombudsman, including that the Ombudsman is available for advice on complaints in respect of claims or other matters which have not been satisfactorily resolved by the relevant direct marketer.

4) A provision of a Rule in this Part is not applicable to a direct marketer in any case where a compliance duty in respect of the same matter is imposed on the direct marketer by, in terms or by virtue of any other law.

5. Agreements

1)

a)

i) An insurer must, where an agreement has been entered into with an intermediary in connection with the insurance products of that insurer, furnish the intermediary with a written copy setting out the terms and conditions thereof: Provided that an insurer may on or after the commencement date only enter into such an agreement if the intermediary has, where lawfully required been issued with a licence for the rendering of intermediary services in terms of section 8 of the FAIS Act, or is, where lawfully required, a representative as contemplated in that Act of any such licensee.

ii) An agreement referred to in subparagraph (i) which has been entered into under Rule 15.1(a) of the previous Rules, as it existed prior to the commencement date, lapses on a date 90 days after that date if the relevant person is not on the lastmentioned date such a licensee or such a representative.

b) Any such agreement also lapses—

i) on any date on which the agreement is lawfully terminated by the parties, irrespective of whether the termination has been mutually agreed upon, or is effected by any one party by notice to the other; or

ii) a) on the date when a licence held by the person concerned, referred to in paragraph (a)(i) becomes inoperative by virtue of the application to the person as licensee of any provision of section 9 of the FAIS Act relating to provisional or final suspension of the relevant licence, section 10 of that Act relating to withdrawal of the licence or section 11 of that Act relating to lapsing of the licence; or

bb) in the case of any such person acting as a representative contemplated in
the FAIS Act, on the date on which the mandate or authority granted in
terms of the FAIS Act to the representative by the licensee concerned, is
lawfully terminated, or any such representative becomes debarred by virtue
of section 14 of the FAIS Act to act as’ a representative.

2) An insurer must, within a reasonable time after being requested to do so, provide any
person with whom an agreement contemplated in Rule 5.1 has been entered into, with all
information reasonably required by such person to comply with any disclosure or other
requirements binding on such person by virtue of any law.

6. Cancellations of policies and cooling-off

1) A policyholder may—
   a) in any case where no benefit has yet been paid or claimed or an event insured
      against has not yet occurred; and
   b) within a period of 30 days of receipt of the summary contemplated in section 48 of
      the Act, or from a reasonable date on which it can be deemed that the policyholder
      received the summary referred to above
cancel any insurance transaction, excluding any policy or variation which only lasts for 30
days or less, by written cancellation notice sent to the insurer. All premiums or moneys
paid by the policyholder to the insurer up to the date of receipt of the cancellation notice
or received at any date thereafter in respect of the cancelled or varied policy, shall be
refunded to the policyholder, subject to the deduction of the cost of any risk cover actually
enjoyed and any market loss where the market value of the investments made has
decreased in the intervening period due to prevailing market conditions.

2) An insurer shall ensure that it complies with the request for cancellation received after the
30 day notice period, but not later than 60 days after the effective date where the
policyholder can prove that a cancellation notice not received by the insurer, was
completed in good faith and communicated to the insurer within the 30 days notice
period.

3) Where a policy can in law not be cancelled, or is by virtue of its terms and nature not
capable of being cancelled, such fact shall be disclosed to the policyholder by the
intermediary involved or the insurer before entering into of any insurance transaction in
respect of the policy.

7. Fund policies

1) An insurer shall, in addition to the disclosures made under Rule 4, issue and deliver
   a fund policy to either the principal officer of the fund, the trustees of the fund or
   any person managing the fund, not later than six months after the effective date, or
   the commencement date of such policy if such policy commences after the effective
date.

b)
i) Notwithstanding the provisions of paragraph (a), an insurer may, with the approval of the registrar and subject to such conditions as the registrar may determine, postpone the issue of a fund policy.

ii) The insurer’s application for such approval shall be submitted to the registrar in the form determined by the registrar.

2) A fund policy shall incorporate the conditions relating to discontinuance and shall include the following:
   a) if the fund is to receive a cash sum, the basis of calculation of such cash sum and the conditions applicable to the payment thereof.
   b) if the fund is to receive assets, the basis on which the value of such assets will be determined and the conditions applicable to any such receipt;
   c) if the fund is to receive a paid-up policy, the basis of calculation of the paid-up value and the conditions applicable to the payment of the paid-up benefits;
   d) if the fund is to receive any benefit other than that contemplated in paragraphs (a) and (c), full details of such benefit; and
   e) where applicable, full details of all charges to be levied on termination.

8. Definitions and commencement

1) In this Part, subject to the introductory provisions of Rule 1, and unless the context indicates otherwise—

"administrative work" means work in connection with the handling of enquiries, maintaining administrative records, the receipt of premiums and processing of claims to the extent agreed to in tens of a written mandate between the insurer and the administrator under an assistance business group scheme;

"administrator" means a person who has a written mandate from an insurer to do administrative work in respect of a specific assistance business group scheme and who is licensed as a financial services provider in terms of, or who is a representative as contemplated in, the FAIS Act;

"agreement" means the written agreement referred to in Rule 9;

"assistance business group scheme" means the provision of policy benefits under an assistance policy to a group where—
   a) individual persons are the policyholders;
   b) no individual underwriting takes place;
   c) the individual person whose life is insured, is directly or indirectly paying premiums;
   d) the policy may be cancelled by either party to the policy; and
   e) the policy has term cover only;
and "scheme" has a corresponding meaning;

"group" means two or more people who have entered, on a group underwriting basis, into a policy with an insurer through an administrator who has been provided with a mandate by the insurer to facilitate these policies.

2) The provisions of this Part come into operation on a date three months after the
9. Written agreement between insurer and scheme or administrator

An insurer may only conduct business with an assistance business group scheme or an administrator if the insurer has entered into a written agreement with such a scheme or administrator: Provided that a policy involved will not be void merely due to any such agreement not having been entered into.

10. Contents of agreement

The agreement entered into as required by Rule 9 must contain at least the following clauses:
   a) the premium rates to be charged by the insurer inclusive of commission payable by the insurer to an intermediary involved;
   b) any fees to be added by any other party;
   c) if premiums are to be received by any person other that the insurer, the agreement must contain at least the following:
      i) the period within which such premiums will be paid over to the insurer;
      ii) that the insurer has the authority to at any time audit the books of the person receiving the premium;
      iii) that the premium moneys so received be handled as trust money;
   d) the scheme or administrator must provide the insurer with at least the following detail:
   e) names of policyholders and beneficiaries; and
   f) identity numbers of policyholders;
   g) if the scheme or administrator has the authority to pay claims, setting out the scope of the scheme’s or administrator’s powers to do so and the circumstances under which it may be done.

11. Cancellation of agreement

Cancellation of the agreement by either party shall be void unless the new insurer who takes over the assistance business group scheme has issued a written confirmation to the previous insurer confirming that the new insurer will be the underwriter to the scheme, except if the insurer complies with the requirements as set out in Rule 13.

12. Void provisions

1) Any new waiting periods to be imposed by a new insurer on existing policies will be void.
2) Changes in the terms and conditions of the assistance policies by the new insurer will be void except for premiums. Terms and conditions may only be changed by the new insurer with the consent of each individual policyholder.

13. Information to be provided to new insurer

1) After an insurer has received confirmation from the assistance business group scheme or administrator that it so wishes to move policies to a new insurer, the insurer must provide the following information to the new insurer as soon as possible but not longer than 30 days after receipt of the confirmation by the scheme or administrator:
   a) the information referred to in Rule 10(d);
   b) number of policyholders on the scheme by type and amount of cover;
   c) aggregate amount of premium;
   d) claims history of the scheme (for the past three years if available);
   e) copy of the master policy;
   f) other information required by the new insurer.

14. Compliance with disclosure requirements

The new insurer must within 30 days after the inception of the assistance policies under the scheme or administrator comply with any disclosure or other requirements binding on the insurer by virtue of the Act, these Rules, the FAIS Act or any other law.

15. Conditions for cancellations

A cancellation of an agreement referred to in Rule 11 will only be effective if—
   a) the registrar has beforehand been informed of the cancellation; and
   b) all individual policyholders have to the satisfaction of the registrar been notified of such cancellation.

16. Rejection of claims

Decisions relating to claims and time limitation provisions for the institution of legal claims

1) An insurer must accept, reject or dispute a claim or the quantum of a claim for a benefit under a policy within a reasonable period after receipt of a claim.
   a) An insurer must within 10 days of taking any decision referred to in paragraph (a), in writing, notify the policyholder of its decision.
   c) If the insurer rejects or disputes the quantum of a claim, the notice referred to in
paragraph (b) must inform the policyholder—
i) of the reasons for the decision;
ii) that the policyholder may within a period of not less than 90 days after the date of receipt of the notice make representations to the relevant insurer in respect of the decision;
iii) of the right to lodge a complaint under the Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004) and the relevant provisions of the Act relating to the lodging of such a complaint, in plain understandable language;
iv) in the event that the relevant policy contains a time limitation provision for the institution of legal action, of that provision and the implications of that provision for the policyholder in an easily understood manner; and
v) in the event that the relevant policy does not contain a time limitation provision for the institution of legal action, of the prescription period that will apply in terms of the Prescription Act, 1969 (Act No. 68 of 1969) and the implications of that provision for the policyholder in an easily understood manner.

d) If a claim is rejected or a quantum is disputed as contemplated in paragraph (a) on behalf of an insurer by a person other than the insurer, such other person must provide the notice contemplated In paragraph (b) and include in that notice, in addition to the information referred to in paragraph (c), the name and contact details of the insurer and a statement that any recourse or enquiries must be directed directly to that insurer.

e) If the policyholder makes representations to the relevant insurer in accordance with paragraph (c)(ii) the insurer must within 45 days of receipt of the representation, in writing, notify the policyholder of its decision to accept, reject or dispute the claim or the quantum of a claim for a benefit under a policy.

f) If the insurer, despite the representations of the policyholder, confirms the decision to reject or dispute the claim or dispute the quantum of a claim, the notice referred to in paragraph (e) must—
i) inform the policyholder of the reasons for the decision;
ii) include the facts that informed the decision; and
iii) include the information referred to in paragraph (c)(iii) to (v).

2) Any time limitation provision for the institution of legal action that may be provided for in a policy entered into before 1 January 2011 may not include the period referred to in Rule 16.1 (c)(ii) in the calculation of the time limitation period.

b) Any time limitation provision for the institution of legal action that may be provided for in a policy entered into on or after 1 January 2011 —
i) may not include the period referred to in Rule 16.1(c)(ii) in the calculation of the time limitation period; and
ii) must provide for a period of not less than 6 months after the expiry of period referred to in Rule 16.1(c)(ii) for the institution of legal action.

c) Despite the expiry of the period allowed for the institution of legal action in a time limitation clause provided for in a policy entered into before or after 1 January 2011, a policyholder may request the court to condone non-compliance with the clause if the court is satisfied, among other things, that good cause exists for the failure to institute legal proceedings and that the clause is unfair to the policyholder.

d) For the purposes of section 12(1) of the Prescription Act, 1969 (Act No. 68 of 1969) a debt is due after the expiry of the period referred to in Rule 16.1 (c)(ii).
17. Signing of blank or uncompleted forms

No insurer or intermediary may in connection with an insurance transaction require, permit or allow a policyholder to sign any blank or partially completed form necessary for the purpose of the transaction, where another person will be required, permitted or allowed to fill in other required detail, or conclude any such transaction where any such signing and providing of detail have occurred.

18. Policy loans and cessions

An insurer must disclose to a policyholder—

a) on entering into a policy loan—
   i) the interest of the loan at the time of entering into;
   ii) whether the interest rate on the loan fluctuates (if applicable); and
   iii) the repayment arrangements of the loan e.g. the amount the policyholder undertakes to pay in discharge of obligations;

b) quarterly the amount of the policy loan and accrued interest in relation to the value of the policy;

c) quarterly the interest rate applicable to the policy loan and any changes thereto;

d) when the loan is about to equal the value of the policy;

e) when the benefits under the policy cease as a result of the policy loan equaling the value of the policy; and

f) on receipt of notification of a cession—
   i) the fact that the cession is recorded in the insurer's records;
   ii) the nature of the cession i.e. whether it is an outright cession or a cession in securing a debt; and
   iii) the name of the cessionary.

19. Waiver of rights and particulars of Long-Term Insurance Ombudsman

1) No insurer or intermediary may request or induce in any manner a policyholder to waive any right or benefit conferred on the policyholder by or in terms of a provision of these Rules, or recognise, accept or act on any such waiver, and any such waiver is null and void.

2) An insurer must within a reasonable period in writing inform a policyholder of a policy issued by the insurer on or after the commencement date, of details of any available internal complaint resolution systems and procedures, as well as full particulars relating to the Long-term Insurance Ombudsman.
20. Penalties

An insurer or intermediary who contravenes or fails to comply with a provision of these Rules shall be guilty of an offence and on conviction liable to a penalty or fine referred to in section 66(1)(c) or 67(1)(c), as the case may be, of the Act.

21. Repeal and transitional provision

1) The previous Rules are hereby repealed.

2) Anything done under, in terms or by virtue of any provision of the previous Rules is deemed, unless clearly inappropriate, to have been done under, in terms or by virtue of a corresponding provision of these Rules.

22. Short title and commencement

These Rules are called the Policyholder Protection Rules (Long-term Insurance), 2004, and come into operation on a date as determined and published by the Minister in accordance with section 62(5) of the Act.

Policyholder Protection Rules, (old)
Policyholder Protection Rules (Long-term Insurance)

The Registrar of Long-term Insurance hereby gives notice under section 62(3) of the Long-term Insurance Act, 1998 (Act No 52 of 1998), that it is intended to promulgate, under section 62 of the said Act, the Policyholder Protection Rules (Long-term Insurance) which are set out in the Schedule hereto, as proposed by the Registrar after consultation with the Advisory Committee on Long-term Insurance established by section 6 of the said Act.

All interested persons are hereby invited to make representations in the format/matrix set out below, on the proposed Rules so as to reach the Registrar within 60 days after the date of publication of this Notice, at the following address:

Attention Mr. M Botha
Financial Services Board
P.O. Box 35655
MENLO PARK
0102

The Rules are available on the Financial Services Board’s web site at http://www.fsb.co.za and
Policyholder Protection Rules

comments may be e-mailed to the following address: idak@fsb.co.za or telefaxed to (012) 347-8788. Enquiries can be directed to Mr. M Botha at (012) 428-8123.

R G Cottrell
Registrar of Long-Term Insurance

RESPONSE PAPER ON CONSULTATION ON THE POLICYHOLDER PROTECTION RULES (LONG-TERM INSURANCE)

PREPARED BY THE FINANCIAL SERVICES BOARD

Please complete Part A or Part B of this form and return it to the Financial Services Board.

A

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Part I : Definitions and Purpose

1. Definitions

In these Rules, "the Act" means the Long-term Insurance Act, 1998 (Act No 52 of 1998), any word or expression to which a meaning has been assigned in the Act, including the regulations promulgated under section 72 of the Act, shall bear that meaning and, unless the context otherwise indicates—

"cancellation"
in respect of a policy, or any part thereof means a unilateral act of discontinuance of the policy, or of any part thereof;

"compliance officer"
in relation to these rules is the public officer of the insurer or a person appointed as a compliance officer by the public officer;

"direct offering"
in relation to these Rules means, negotiations on or marketing for the entering into or variation of a policy, by or through the mail, telephone, telefax, or any electronic means;

"effective date"
in relation to an insurance transaction means the date on which the entering into, variation or termination is accepted;

"ensure"
in relation to a person or body and any matter mentioned in a provision of these Rules, means to take, any necessary steps in order that the clear objective of the provision is achieved;

"execution-only policyholder"
in relation to an insurance transaction means a policyholder who has neither before nor during any such transaction sought from any insurer or intermediary, nor has so been given, any advice by any such party in relation to such transaction;

"fund policy"
means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits for the purpose of funding in whole or in part the liability of a fund to provide benefits to its members in terms of its rules, other than such a contract relating exclusively to a particular member of the fund or to the surviving spouse, children, dependants or nominees of a particular member of the fund; and includes a reinsurance policy in respect of such a contract;

"group scheme"
means a scheme or arrangement which provides for the entering into of one or more policies other than an individual policy in terms of which two or more persons without an insurable interest in each other, for the purposes of the scheme, are the lives insured but excluding fund policies;

"inspection"
means any inspection contemplated in the Inspection of Financial Institutions Act, 1998 (Act No 80 of 1998);

"insurance transaction"
means the entering into or termination of a policy and includes any material and significant variation of a policy excluding any contractually pre-determined or determinable variation;

"insurer"
means a long-term insurer;

"intermediary"
means any representative or independent intermediary acting as a sales person for an insurer;

"limited-transaction policyholder"
in relation to an insurance transaction means a policyholder who before or during any such transaction receives or agrees to receive from any insurer or intermediary, only limited, or product related advice or information in relation to such transaction;

"policy"
means a long-term policy but not a reinsurance policy;
"policyholder" includes any prospective policyholder including a limited transaction policyholder but not an execution only policyholder;

"replacement policy" means a policy entered into by a policyholder (other than an execution-only policyholder), within a period of four months, in replacement wholly or partially of, or before or after the termination by the policyholder of any similar or associated policy;

2. Purpose of the Rules

The purposes of these Rules are to enable a policyholder to make informed decisions in regard to long-term insurance products where a policy is to be entered into, varied, cancelled, replaced or terminated and to ensure that intermediaries and insurers conduct business honestly and fairly, and with appropriate care and diligence, in the best interests of policyholders and the long-term insurance industry.

Part II : Summary of the Rules

3. Summary

3.1) A policyholder who deals directly with an insurer without using an intermediary or otherwise asking for advice does so at his own risk and has only limited protection in terms of these Rules, unless such policyholder, known as an execution only policyholder, requests that all rights be maintained. The insurer is obliged to explain to the policyholder what his rights are.

3.2) All intermediaries shall disclose this Summary of the Rules to a policyholder at the earliest reasonable opportunity before entering into any initial or additional insurance transaction with that policyholder. The obligation to disclose this Summary does not apply to direct offerings by an insurer and may also be specifically waived by a policyholder.

3.3) All intermediaries shall ensure that they disclose at the earliest reasonable opportunity to a policyholder that they deal with, full details of their identity, their qualifications and experience, which insurance products they may sell and which companies they represent and in what legal capacity they operate.

3.4) All policyholders entering into an insurance transaction are entitled to be provided with adequate information about the impact of any decision that they are being asked or elect to make. This includes cost, affordability, impact on their insurance and investment portfolios, flexibility and contract terms. A policyholder may specifically waive this right, or know or agree that only limited information is to be provided, in which case the policyholder will be known as a limited transaction policyholder.

3.5) No policyholder may be advised to cancel an existing policy or any part thereof to
purchase an alternative replacement policy before full disclosure has been made as to the implications of such a cancellation and replacement.

3.6) An insurer shall ensure that it communicates at least once with a policyholder or a execution only policyholder to provide details of:- its identity; the product being purchased or transaction being undertaken, including, the relevant costs associated with the transaction; the contractual terms and the institutional details for transactions and complaints. The insurer shall ensure that a separate summary of the material terms of the policy is made available to the policyholder.

3.7) An insurer shall ensure that policyholders who enter into an insurance transaction must be given 30 consecutive days by the insurer, from the effective date of the transaction, within which to ask for the transaction to be automatically cancelled and the premiums refunded. The insurer shall ensure that it complies with the request and will only be allowed to deduct from the policy the costs of any risk cover actually enjoyed and any market loss where the market value of the investments made has fallen in the intervening period due to market conditions. This right may not be exercised if the policyholder has already claimed or intends to claim against the policy once the cancellation has taken place. This right may be specifically waived by the policyholder or contracted out of effect by the insurer where the product type being marketed requires it or the law does not allow for cancellation.

3.8) An insurer shall ensure that it accredits intermediaries on the products that those intermediaries may sell or service for that insurer, based on appropriate information and training.

3.9) Any policyholder that has a complaint about the conduct of an intermediary or insurer in complying with these rules or otherwise must address that complaint to the compliance officer at the insurer or to the long-term insurance ombudsman if applicable or if still unsatisfied to the Registrar at the Financial Services Board.

3.10) Any insurer or intermediary that fails to comply with these Rules may be guilty of an offence and liable for prosecution.

Part III: Details of Disclosures

4. Principles of disclosures

4.1) The following shall apply to disclosures contemplated in these Rules:
   a) The intermediary or insurer as applicable shall bear the onus of proving that a disclosure has been made.
   b) Disclosures must be in plain language and set out so as to promote easy comprehension and to avoid uncertainty or confusion.
   c) Disclosures shall be made at an appropriate time and need only be made in respect of significant or material transactions and may be made in writing, orally, using any appropriate electronic media or by telefax.
   d) An insurer or intermediary as applicable shall ensure that they confirm any disclosures to the policyholder in writing where requested or agreed to by the policyholder.
e) Disclosures need not be duplicated or repeated to the same policyholder unless material or significant changes which will affect that policyholder have occurred or the transactions contemplated make it desirable or necessary.

f) Disclosures may be validly made using standard forms or format.

5. Obligatory disclosures

5.1) An intermediary before dealing with a policyholder in respect of an insurance transaction shall ensure that at least the following disclosures, where applicable, are made once to the policyholder, in writing:

a) full names, titles or designations, postal and physical addresses of the intermediary's head office and issuing office, telephonic and electronic numbers, communication details of contact persons;

b) the status and relationship with the insurer involved and proof of authority or mandate to act, including whether more than 10% shares are held directly or indirectly in the insurer, whether they are affiliated companies and whether more than 30% of business is placed with any particular insurer in any one year;

c) concise details of relevant experience;

d) insurer and product accreditation details;

e) details of any indemnity cover; and

f) any fee the policyholder pays to the intermediary.

5.2) An insurer shall ensure that it makes at least the following disclosures to the policyholder in writing, as soon as is practical after an insurance transaction is initiated—

a) full registered name and abbreviated name, postal and physical addresses of the head office and issuing office, telephonic or electronic access numbers, and communication details of service departments;

b) the compliance officer of the insurer and details of procedures for the resolution of complaints by policyholders, including complaints in respect of intermediaries;

c) claims notification procedures;

d) name, class or type of policy involved;

e) nature and extent of benefits which must include the bonus status of the policy, the manner of deriving or obtaining thereof and manner of payment or furnishing of benefits as the case may be;

f) nature and extent of monetary obligations assumed by the policyholder, manner of payment of premiums and the consequences of non-payment of such premiums;

g) mortality, morbidity or other loadings, guarantees, exclusions, waiting periods or other special terms or conditions;

h) where premiums are to be contractually increased, the amount of the increased premium shall be shown for the first five years and thereafter on a five-year basis;

i) minimum guaranteed values shall be shown where applicable. Where illustrative values are shown, such values shall show growth and surrender values in respect of the policy every year for the first five years and every fifth year thereafter for the term of the policy;

j) in the case of policies which are retirement annuities, fund values shall be shown in place of surrender values until the earliest retirement date;

k) all values shall be shown in monetary terms where possible;

l) any relevant assumptions on amounts and costs shall also be disclosed;

m) actual initial and ongoing expense charges, commissions and any other fees leviable
against the policy, including the amount and incidence of these charges and fees.

5.3) As regards the policy involved, an insurer shall ensure that it makes at least the following disclosures to the policyholder, as soon as is practical after an insurance transaction is initiated—

a) mortality, morbidity or other loadings, guarantees, exclusions, waiting periods or other special terms or conditions;

b) in the case of policies which are retirement annuities, fund values shall be shown in place of surrender values until the earliest retirement date;

c) all values shall be shown in monetary terms where possible;

d) any relevant assumptions on amounts and costs shall also be disclosed;

e) actual initial and ongoing expense charges, commissions and any other fees leviable against the policy, including the amount and incidence of these charges and fees;

f) those of the representations made by or on behalf of the policyholder to the insurer which were regarded by that insurer as material to its assessment of the risks under the policy; and

g) the events in respect of which the policy benefits are to be provided and the circumstances (if any) in which those benefits are to be provided.

6. Other disclosures

The provisions of this Part shall not be construed as preventing any insurer or intermediary involved in any particular case to make any other or additional disclosures to a policyholder before the effective date, where such disclosures will promote the better achieving of the objects of these Rules and are deemed necessary or expedient in the circumstances of the particular case, or to comply with any other code of business conduct provisions applying lawfully to any such party.

7. Standardised disclosures

Without prejudice to the provisions of Rules 4 and 5, an insurer, or any of its intermediaries with the concurrence of the insurer, may draft standardised disclosure documentation in respect of any particular class or type of policy, to be used for the purpose of complying with the provisions of this Part: Provided that—

a) such documentation is current on any relevant effective date; and

b) such use does not exonerate any insurer or intermediary from compliance with any disclosure requirement of this Part not addressed, or not fully addressed, in such documentation.

Part IV : Replacement Policies

8. Prohibitions in respect of replacement policies

8.1) An intermediary shall ensure that no policyholder is advised or asked to cancel a policy in
order to purchase a replacement policy, without first being fully advised as to the implications, cost and consequences of such an action.

8.2) Intermediaries shall ensure that any replacing transaction is identified as a replacement of a policy to the issuing insurer when applying to it on behalf of the policyholder.

8.3) Intermediaries shall ensure that the previous insurer is notified that its cancelled policy is part of a replacing transaction to allow that insurer, if it so wishes, to contact the policyholder.

8.4) Any person who believes that any new policy qualifies as a replacement policy and that the policyholder has not been appropriately advised or that the insurers involved have not been notified may lodge a written complaint to the insurer which issued the new policy or to the Registrar who shall refer the complaint to such insurer.

8.5) The insurer shall within six weeks after the receipt of the complaint take steps to establish the facts and if satisfied that the policy qualifies as a replacement policy and that the policyholder was not given appropriate or correct advice, or that the insurers involved were not properly notified, take disciplinary steps against the intermediary involved, including reclaiming any commission paid, whether or not the policy survives, or terminating the mandate of that intermediary, to prevent a reoccurrence of this type of transaction, after first giving that intermediary the opportunity to respond to the allegations.

8.6) The insurers shall offer the policyholder the right of cancellation in accordance with these Rules from the date that all internal procedures are final.

8.7) The insurer shall report the findings and actions in writing to the complainant and to the Registrar, who may then elect to take any further action in terms of the law.

Part V : Cancellations of Policies and Cooling Off

9. Cancellations of policies and cooling off

9.1) a) A policyholder may in any case where no claim has been instituted or any benefit received under the policy concerned or where no right has yet arisen to institute any claim or receive any benefit; and

b) within a period of 30 days of receipt of the summary contemplated in section 48 of the Act, or the date that an insurer has completed the investigation referred to in Rule 8(6), cancel any policy, or any such variation, excluding any policy or variation thereof which only lasts for 30 days or less, by written cancellation notice sent to the insurer. All premiums or moneys paid by the policyholder to the insurer up to the date of receipt of the cancellation notice or received at any date thereafter in respect of the cancelled policy, shall be refunded to the policyholder, subject to the deduction of the cost of any risk cover actually enjoyed and any market loss where the market value of the investments made has fallen in the intervening period due to prevailing market conditions.
9.2) An insurer shall ensure that it complies with the request for cancellation received after the 30 day notice period but not later than 60 days after the effective date where the policyholder can prove that a cancellation notice was completed in good faith and communicated to the insurer but not received by the insurer within the 30 day notice period.

9.3) This rule shall apply to any direct offerings by an insurer but shall not be available to an execution only policyholder.

9.4) Where the policy type or terms makes it unlawful or inappropriate to cancel, this fact shall be disclosed to the policyholder at the earliest opportunity by the intermediary and the life office.

Part VI: Group Schemes and Fund Policies

10. Group schemes

10.1) An insurer shall, in addition to the disclosures made under Rule 5, ensure that in the case of any group scheme:—
   a) a policy summary contemplated in section 48 of the Act is made available to all participating policyholders together with details of the premium and any other amount payable by any member of the group scheme, the portion of such premium or amount to be received by the insurer, and a statement confirming that the rules or conditions of the scheme are not inconsistent with the provisions of the Act or with the terms of the policy; and
   b) a membership certificate is issued to all members of the scheme containing details of the member, the policy benefits and premiums obligations. Such certificate shall be amended and reissued from time to time as may be necessary.

11. Fund policies

11.1) An insurer shall, in addition to the disclosures made under Rule 5, issue and deliver to the principal officer of the fund, the trustees of the fund and any other person managing the fund, a fund policy not later than six months after the effective date or the commencement date of such policy, if such policy commences after the effective date.

   a) Notwithstanding the provisions of rule (1)(a), an insurer may, with the approval of the Registrar and subject to such conditions as he may determine, postpone the issue of a fund policy.

   b) The insurer’s application for such approval shall be submitted in the form determined by the Registrar.

11.2) The fund policy shall incorporate the conditions relating to discontinuance and shall include the following:
a) If the fund is to receive a cash sum, the basis of calculation of such cash sum and the conditions applicable to the payment thereof;
b) if the fund is to receive assets, the basis on which the value of such assets will be determined and the conditions applicable to the transfer thereof;
c) if the fund is to receive a paid-up policy, the basis of calculation of the paid-up value and the conditions applicable to the payment of the paid-up benefits;
d) if the fund is to receive any benefit other than that contemplated in subparagraphs (a) and (c), full details of such benefit; and
e) where applicable, full details of any penalty provision.

Part VII : General

12. Special duties of Registrar

The Registrar—
  a) shall advertise these Rules;
  b) shall make copies of these Rules and of any guidelines available at the Registrar’s office or otherwise at the request of any person at a prescribed fee per copy;
  c) may from time to time, with the concurrence of the Advisory Committee, issue non-binding—
      i) guidelines on the interpretation and implementation of these Rules; and
      ii) best conduct directives for intermediaries;
  d) shall—
      i) annually compile a compliance review summarising the import of reports referred to in Rule 16.7 and containing advice deemed necessary or expedient in connection with the achieving of the objects of these Rules, including recommendations on the amendment of these Rules or of the Act, including advice not specifically connected to such reports; and
      ii) submit such compliance review to the Advisory Committee for consideration.

13. Consequences of non-compliance

13.1) Where a policyholder considers that a provision of these Rules has been contravened or not complied with by any party involved in a policy held by him or her, such policyholder may lodge a written complaint to the party involved and, such complaint is not resolved to the satisfaction of the policyholder, to the Registrar: Provided that the foregoing provisions of this sub-rule shall with the necessary changes also apply to any insurer, independent intermediary, representative or any other interested member of the public who or which considers that any provision of these Rules has in connection with any policy and in any particular case been contravened or not complied with.

13.2) The Registrar shall, on receipt of any such complaint, require the party involved by written notice to provide the Registrar within a period determined by the Registrar with a full reply to the complaint.

13.3) The Registrar may, whether an inspection has been carried out or not, and where a breach of these Rules has been established to the Registrar’s satisfaction, after informing the
party or parties involved of the intention so to act and affording them a reasonable opportunity to respond thereto, by written notice require any party involved to take particular corrective steps in accordance with a specific timetable, and the Registrar may take any steps in connection with the breach which is available to the Registrar in law.

13.4) A party involved to which a notice contemplated in rule 13.2 and 13.3 has been directed, shall within the period determined by the Registrar in the notice, or within any extended period determined by the Registrar on written application by the party, comply with the requirements stated in the relevant notice.

14. Waiver of rights

No waiver by any policyholder of any right or benefit granted by these Rules, shall be valid unless agreed to specifically.

15. Penalties

An insurer or intermediary who contravenes or fails to comply with these Rules shall be guilty of an offence and on conviction liable to a penalty or fine referred to in section 66(1)(c) or 67(1)(c), as the case may be, of the Act.

16. Additional duties of insurers and intermediaries

16.1) a) Subject to paragraph (b), an insurer must, where an agreement is to be entered into with an intermediary for the rendering of services as intermediary, furnish the intermediary with a written mandate or authority to act on behalf of the insurer excluding the collection of premiums, setting out the terms and conditions of such mandate or authority.

b) An insurer must in the case of an agreement contemplated in paragraph (a) existing immediately prior to the date referred to in section 62(5) of the Act, and which does not contain any written mandate or authority contemplated in paragraph (a), within 30 days after the said future date furnish such intermediary with such written mandate or authority.

16.2) a) Insurers shall ensure that records are kept of all disclosures made or advice given by them, including the manner of disclosure or advice giving, in respect of any insurance transaction. These records must be kept until maturity of the policy from the effective date of the transaction.

b) Copies of such disclosure documents are to be provided to the policyholder.

16.3) An insurer shall ensure that a summary of every policy issued by it, or any variation thereof, is reducible to a written or printed form (with the inclusion of any arrangement
for interim cover), and issued to the policyholder within 60 days as contemplated in section 48 of the Act.

16.4) Insurers shall ensure that any policies or variations thereof which may be issued to policyholders, are issued in a clear and readable print size, spacing and format.

16.5) An insurer shall ensure that where any decision has been made as to the repudiation of any claim under a policy, or as regards the quantum which is in dispute, the policyholder concerned is in writing informed of the reasons for the decision and that the policyholder may within a period of not less than 90 days after the date of the relevant decision make representations to the relevant insurer in respect of such decision.

16.6) Insurers and intermediaries shall, within 6 months from the date of coming into operation of these Rules, ensure that they provide—
   i) for monitoring systems to measure compliance with these Rules;
   ii) where necessary, for information or training courses for persons employed or contracted in such business, in respect of the implementation by them of these Rules;
   iii) for the accreditation of the relevant knowledge, competency and proficiency of such persons in the products that they represent within 6 months of such persons becoming active;
   iv) for the ongoing recordal of the knowledge, competency and proficiency of accredited persons.

16.7) Every insurer shall, within a period of four months after the end of every financial year, submit a written report to the Registrar, in respect of the period of every such financial year, on—
   a) all steps taken by the insurer to ensure compliance with the provisions of these Rules, and the reasons for any non-compliance which may have occurred;
   b) problems experienced by the insurer and any of its representatives with the interpretation or implementation of these Rules, and suggestions or recommendations for improvements or other amendments; and
   c) full details of any complaints received by the insurer in connection with the implementation of these Rules, and of all steps taken in connection therewith.

Part VIII : Title

17. Title

These Rules shall be called the Policyholder Protection Rules (Long-term Insurance).
Regulations

www.acts.co.za
Regulations

Regulations under the Long Terms Insurance Act, 1998

The Minister of Finance has under section 72 of the Long-term Insurance Act, 1998, made the regulations set out in the schedule.

Part 1. Interpretation

1. Definitions

In these regulations "the Act" means the Long-term Insurance Act, 1998, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned to it, and—

"Part"
means the applicable Part of these regulations;

"SAFEX"
means the South African Futures Exchange;

"Schedule"
means the applicable Schedule to the Act;

"section"
means the applicable section of the Act.

Part 2. Limitation on Assets

1. Definitions

For the purposes of this Part and section 31 and, unless the context otherwise indicates—

"asset-holding intermediary"
in relation to a long-term insurer, means an undertaking, other than a company the shares of which are listed on a licensed stock exchange in the Republic—

a) which is a subsidiary of the long-term insurer or would be its subsidiary if that insurer were a company;

b) the management of the investments of which is under de facto control of the long-term insurer; and

c) which has assets which are regarded and dealt with, for all intents and purposes, as if they were the assets of the long-term insurer;
"associated company" means a company—
  a) which is an associate, as defined in section 26(5), of a long-term insurer;
  b) which exercises control, as defined in section 26(6), over a long-term insurer; or
  c) over which a long-term insurer exercises control as defined in section 26(6), other than a company which is an asset-holding intermediary or a property company;

"call option" means an option contract under which the holder of the option contract has the right but not an obligation, in accordance with the terms of the contract, to purchase (or to make a cash settlement in lieu thereof) the quantity of the underlying asset covered by the call option contract;

"convertible debenture" means a debenture which is convertible into equity shares of a company;

"equity shares" means equity shares as defined in section 1 of the Companies Act;

"linked policy" means a long-term policy in relation to which the liabilities of the long-term insurer are linked liabilities as defined in section 33(2);

"long position" means long position as defined in the rules of SAFEX;

"market value" in relation to an asset, means—
  a) in the case of an asset which is listed on a licensed stock exchange and for which a price was quoted on that stock exchange on the date as at which the value is calculated, the price last so quoted;
  b) in the case of an asset which is a long-term policy, the amount which on any day would be payable to the policyholder upon the surrender of the policy on that day;
  c) in any other case, the price which could have been obtained upon a sale of the asset between a willing buyer and a willing seller dealing at arm's length, as estimated by the long-term insurer, or by the Registrar if the Registrar is not satisfied with that estimate;

"multiple" means the futures contract’s unit of trading in its description;

"n.e.s." means not elsewhere specified in this Part;

"net loans" means the positive amount (if any) by which the aggregate amount of loans made by a long-term insurer to its asset-holding intermediary, exceeds the aggregate amount of loans made to it by that asset-holding intermediary;
"property company"
means a company—
   a) whose ownership of—
      i) immovable property; or
      ii) all of the shares in a company—
          aa) whose principal business consists of the ownership of immovable
              property; or
          bb) which exercises control, as defined in section 26(6), over a company
              whose principal business consists of the ownership of immovable
              property; or
      iii) a linked policy, to the extent that the policy benefits thereunder are
determined by reference to the value of immovable property, constitutes, in
the aggregate, 50 per cent or more of the market value of its assets;
   b) which derives 50 per cent or more of its income, in the aggregate, from—
      i) investments in immovable property;
      ii) investments in another company which derives 50 per cent or more of its
income from investments in immovable property; or
      iii) a linked policy to the extent that the policy benefits thereunder are
determined by reference to the value of immovable property; or
   c) which exercises control, as defined in section 26(6), over a company referred to in
paragraph (a) or (b);

"put option"
means an option contract under which the holder of the option contract has the right but not an
obligation in accordance with the terms of the contract to sell (or to make a cash settlement in
lieu thereof) the quantity of the underlying asset covered by the put option contract;

"rules of SAFEX"
mean the rules of SAFEX referred to in section 17 of the Financial Markets Control Act, 1989 (Act
No. 55 of 1989);

"shares"
include share stock;

"short position"
means short position as defined in the rules of SAFEX.

2. General limitation on Assets

For the purposes of section 31(1), a long-term insurer shall have assets of the kinds specified in
Schedule 1 having a market value which, when expressed as a percentage of the aggregate value
of the relevant liabilities of the long-term insurer, does not exceed the percentage specified in
column 2 of the Table to this Part in relation to the particular kinds or categories of assets
specified in column 1 of that Table.
3. Assets of Asset-holding Intermediary

For the purposes of regulation 2.2 the assets of the kinds set out in Schedule 1 of an asset-holding intermediary of a long-term insurer, other than a claim thereof against that long-term insurer, shall be deemed to be assets of the long-term insurer—

a) in place of the net loans made by it to the asset-holding intermediary, to the extent determined in accordance with the formula—

\[ \frac{A}{B \times C} \]
b) in place of its shares, other than equity shares, in the asset-holding intermediary, to the extent determined in accordance with the formula—
c) in place of its equity shares in the asset-holding intermediary, to the extent
determined in accordance with the formula—

\[ Ex \frac{F}{G} \]
in which formulae—

A) represents the market value of each asset or kind or category of asset specified in column 1 of the Table to this Part of the asset-holding intermediary;

B) represents the aggregate market value of all the assets of the asset-holding intermediary;

C) represents the amount of any claim arising from any net loans to the asset-holding intermediary;

D) represents the value of shares, other than equity shares, held by the long-term insurer in the asset-holding intermediary, plus or minus the amount to be apportioned to those shares by virtue of the excess or shortfall of the assets of the asset-holding intermediary over its liabilities;

E) represents A minus the sum of the amounts determined in accordance with the formulae referred to in paragraphs (a) and (b);

F) represents the value of the equity shares held by the long-term insurer in the asset-holding intermediary;

G) represents the aggregate value of all equity shares of the asset-holding intermediary.

4. Liabilities of Asset-holding Intermediary

For the purposes of regulation 2.2, the liabilities of an asset-holding intermediary of a long-term insurer, other than a claim of the long-term insurer against that asset-holding intermediary, shall be deemed to be liabilities of the long-term insurer to the extent determined in accordance with the formula—

\[ Ax \frac{B}{C} \]
A) represents the aggregate value of those liabilities, plus the value of those of the shares, other than equity shares, in the asset-holding intermediary concerned, which are not owned by the long-term insurer concerned;  
B) represents the value of the equity shares held by the long-term insurer in the asset-holding intermediary;  
C) represents the aggregate value of all equity shares of the asset-holding intermediary.

5. Deemed Assets

For the purposes of regulation 2.2, there shall be deemed as assets of a long-term insurer, or, where appropriate, its asset-holding intermediary, in place of the market value of an asset thereof which is a linked policy, those assets of the particular kind of categories specified in Schedule 1 to the extent, in respect of each such particular kind or category, of an amount which bears the same proportion to the market value of the linked policy as each of those kinds or categories of assets by reference to the value of which the policy benefits are to be determined, is stated in terms of the policy (or, if not so stated, is estimated by the long-term insurer which is liable under the policy), bears to the total of all of the assets to which the policy is linked.

6. Futures Contracts

1) For the purposes of regulation 2.2, a futures contract shall be deemed to be the asset or kind of asset to which the futures contract relates. The exposure in consequence of concluding a futures contract shall be included in the calculation of the overall exposure to the particular asset or category of assets concerned, and the assets of the kind specified in item 1, 2, 16(5)(d) or 18 of the Table to Schedule 1 shall be adjusted accordingly. The exposure arising from the use of a purchased futures contract (long position) shall be added, while assets of the kind specified in item 1, 2, 16(5)(d) or 18 of the Table to Schedule 1 shall be reduced, and the exposure arising from the use of a sold futures contract (short position) deducted from the particular asset or category of assets whilst the assets of the kind specified in item 1, 2, 16(5)(d) or 18 of the Table to Schedule 1 shall be increased.

2) The balance of any margin deposit shall be deemed to be an asset of the kinds specified in items 2 and 16(5)(b) of the Table to Schedule 1.

3) For the purposes of this regulation "exposure" means the number of contracts x multiple x current price, where the current price shall be the "mark-to-market" as defined in the rules of SAFEX on the reporting date.
7. Option Contracts

1) For the purposes of regulation 2.2, an option contract shall be deemed to be the asset or kind of asset to which the option contract relates. The exposure in consequence of concluding an option contract shall be included in the calculation of the overall exposure to the particular asset or category of assets concerned and the assets of the kind specified in item 1, 2, 16(5)(d) or 18 of the Table to Schedule 1 shall be adjusted accordingly. The exposure arising from the use of an option contract that results in a positive holding shall be added to the particular asset or category of assets while assets of the kind specified in item 1, 2, 16(5)(d) or 18 of the Table to Schedule 1 shall be reduced. The exposure arising from the use of an option contract that results in a negative holding shall be deducted from the particular asset or category of assets, while assets of the kind specified in item 1, 2, 16(5)(d) or 18 of the Table to Schedule 1 shall be increased. A positive holding constitutes a call option bought (long call) and a put option sold (short put), and a negative holding constitutes a call option sold (short call) and a put option bought (long put).

2) The balance of any margin shall be deemed to be an asset of the kinds specified in items 2 and 16(5)(b) of the Table to Schedule 1.

3) For the purposes of this regulation "exposure" means the number of contracts x delta x the market value of the underlying asset or kind of assets where "delta" represents the change in option contract premium associated with one percentage point move in the market price of the underlying asset.

8. Other Derivatives

Any derivative in relation to which no basis for valuation has been provided in regulation 2.6 or 2.7 shall be—
   a) deemed to be the asset or kind of asset to which the derivative relates; and
   b) valued as determined by the Registrar.

9. Categories of Assets

(Regulation 2.2 )

In this Table particular items or groups of items referred to in Schedule 1, or particular kinds of assets falling within the more general description of those categories in Schedule 1, are specified in column 1. The maximum permitted holding of those specified assets, calculated according to their market value and expressed as a percentage of the liabilities concerned, is specified in column 2.

<table>
<thead>
<tr>
<th>Asset Limitation Number</th>
<th>Column 1 Relevant Schedule 1 Item</th>
<th>Column 2 Percentage</th>
</tr>
</thead>
</table>

// Table entries and values


<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>01.</td>
<td>Ex item 1: Krugerrand coins – in the aggregate</td>
<td>10</td>
</tr>
<tr>
<td>02.</td>
<td>Ex items 2 and 18:</td>
<td></td>
</tr>
<tr>
<td>02.01</td>
<td>In the aggregate in respect of any one institution</td>
<td>20</td>
</tr>
<tr>
<td>02.02</td>
<td>In the aggregate in respect of margin deposits held with SAFEX</td>
<td>2.5</td>
</tr>
<tr>
<td>03.</td>
<td>Item 3:</td>
<td>20</td>
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<td>04.</td>
<td>Ex item 6:</td>
<td></td>
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<tr>
<td>04.01</td>
<td>In the aggregate in respect of any one body, council or institution</td>
<td>20</td>
</tr>
<tr>
<td>05.</td>
<td>Item 7:</td>
<td>20</td>
</tr>
<tr>
<td>06.</td>
<td>Item 8:</td>
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<td>07.</td>
<td>Item 9:</td>
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<td>08.</td>
<td>Item 10:</td>
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<tr>
<td>09.</td>
<td>Item 11:</td>
<td>20</td>
</tr>
<tr>
<td>10.</td>
<td>Ex item 12:</td>
<td>20</td>
</tr>
<tr>
<td>11.</td>
<td>Item 13:</td>
<td>20</td>
</tr>
<tr>
<td>12.</td>
<td>Ex items 14, 16(1), (2), (3) and (4), 17, 19 and 20:</td>
<td></td>
</tr>
<tr>
<td>12.01</td>
<td>Immovable property, units in a unit trust scheme in property shares, loans or mortgage bonds to or shares or debentures or depository receipts or linked units or loan stock issued by a property company; and linked policies linked thereto—</td>
<td></td>
</tr>
<tr>
<td>12.01.01</td>
<td>In the aggregate</td>
<td>25</td>
</tr>
<tr>
<td>12.01.02</td>
<td>In the aggregate in respect of any one property, or property development project or property company</td>
<td>5</td>
</tr>
<tr>
<td>13.</td>
<td>Ex item 15:</td>
<td></td>
</tr>
<tr>
<td>13.01</td>
<td>Computer equipment – in the aggregate</td>
<td>5</td>
</tr>
<tr>
<td>13.02</td>
<td>Other assets – in the aggregate</td>
<td>2.5</td>
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<td>14.</td>
<td>Ex items 16(1), (2), (3) and (4), 17 and 20(a): Shares, convertible debentures or depository receipts or linked units or loan stock, issued by a body corporate, other</td>
<td></td>
</tr>
<tr>
<td>Paragraph</td>
<td>Description</td>
<td>Amount</td>
</tr>
<tr>
<td>-----------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
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<tr>
<td>14.01.01</td>
<td>than an asset-holding intermediary, n.e.s., and units in a unit trust scheme in securities other than property shares; and linked policies linked thereto—</td>
<td>75</td>
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<tr>
<td>14.01.02</td>
<td>In the aggregate</td>
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<tr>
<td>14.01.03</td>
<td>In the aggregate of those which are not listed on a licensed stock exchange or financial market in the Republic or are listed in the development and Venture Capital Sectors of such an exchange or market</td>
<td>10</td>
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<tr>
<td></td>
<td>In the aggregate of those which are not listed on a licensed stock exchange or financial market in the Republic, otherwise than in the Development and Venture Capital Sectors thereof, and which are issued by any one body corporate which has a market capitalization—</td>
<td>15</td>
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<td></td>
<td>not exceeding R2 000 million exceeding R2 000 million</td>
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<tr>
<td>15.01</td>
<td>Ex items 16(1) and (2), 19(a) and 20(b) and (c): Loans to, and claims against, or debentures, other than convertible debentures, issued by, associated companies—</td>
<td>5</td>
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<tr>
<td>16.01</td>
<td>Ex item 20(a): Claims under long-term policies other than linked policies—</td>
<td>20</td>
</tr>
<tr>
<td>17.01</td>
<td>Ex items 16(1) and (2), 19(a) and 20(b) and (c): Claims against individuals, and claims against, loans to or debentures other than convertible debentures, issued by, bodies corporate, n.e.s.—</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>In the aggregate</td>
<td>0,25</td>
</tr>
<tr>
<td></td>
<td>In the aggregate in respect of any one individual</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>In the aggregate in respect of any one body corporate</td>
<td></td>
</tr>
<tr>
<td>18.01</td>
<td>Ex item 16(5): Securities, shares, credit balances, deposits, units, margin deposits—</td>
<td>15</td>
</tr>
<tr>
<td>18.01.01</td>
<td>In the aggregate</td>
<td></td>
</tr>
<tr>
<td>18.01.02</td>
<td>Ex item 16(5)(b):</td>
<td></td>
</tr>
<tr>
<td>18.01.02.01</td>
<td>In the aggregate</td>
<td>15</td>
</tr>
<tr>
<td>18.01.03</td>
<td>Ex item 16(5)(d):</td>
<td></td>
</tr>
<tr>
<td>18.01.03.01</td>
<td>In the aggregate in respect of margin</td>
<td>2,5</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Amount</td>
</tr>
<tr>
<td>------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>18.01</td>
<td>Deposits</td>
<td>15</td>
</tr>
<tr>
<td>18.01.04</td>
<td>Ex item 16(5)(a)(i): In the aggregate</td>
<td>15</td>
</tr>
<tr>
<td>18.01.05</td>
<td>Ex item 16(5)(a)(ii) and (c): In the aggregate</td>
<td>15</td>
</tr>
<tr>
<td>18.01.05.01</td>
<td>In the aggregate of shares, convertible debentures or depository receipts or linked units or loan stock which are listed in a regulated market in a country other than the Republic which the Registrar has approved or are listed in the Development or Venture Capital Sectors of a stock exchange outside the Republic, which the Registrar has approved, and which are issued by any one body corporate incorporated outside the Republic; and linked policies linked thereto — in the aggregate</td>
<td>5</td>
</tr>
<tr>
<td>18.01.05.02</td>
<td>In the aggregate of shares, convertible, debentures or depository receipts or linked units or loan stock which are listed on a stock exchange outside the Republic, which the Registrar has approved, and which are issued by any one body corporate incorporated outside the Republic which has a market capitalization; and linked policies linked thereto — not exceeding R2 000 million exceeding R2 000 million</td>
<td>10</td>
</tr>
<tr>
<td>18.01.05.03</td>
<td>In the aggregate of securities, other than convertible debentures or depository receipts or linked units or loan stock, which are listed in a regulated market in a country other than the Republic or on a stock exchange outside the Republic, which the Registrar has approved, and which are issued by any one body corporate incorporated outside the Republic; and linked policies linked thereto — in the aggregate in respect of any one body corporate</td>
<td>5</td>
</tr>
<tr>
<td>19.01</td>
<td>Items 16(5)(d) and 18: In the aggregate in respect of margin deposits</td>
<td>2,5</td>
</tr>
<tr>
<td>20.01</td>
<td>Ex items 14, 16(1), (2), (3), (4) and (5)(a)(ii) and (c), and 17 In the aggregate</td>
<td>90</td>
</tr>
<tr>
<td>21.01</td>
<td>Ex items 14, 15, 16(1), (2), (3), (4) and (5)(a)(ii) and (c), 17, 19 and 20: In the aggregate</td>
<td>95</td>
</tr>
</tbody>
</table>
Part 3. Limitation on Remuneration to Intermediaries

Part 3A: Policies other than policies to which Part 3B Applies

1. Application of this Part 3A and definitions

This part 3A applies to policies, components and benefit components other than those to which Part 3B applies, and unless the context indicates otherwise—

"administrative work"
means work in connection with the handling of enquiries, maintaining administrative records and the receipt and processing of claims under a group scheme;

"annualised premium"
in relation to a group scheme or fund policy, means
\[
\frac{12}{m}
\]
of the total premiums payable under the group scheme or fund policy during a scheme year, excluding transfer values inwards and credits arising in the group scheme or fund policy to employers of fund members in consequence of the withdrawal of members;  
"m" means the number of months in a scheme year.

"benefit component"
means each separately identifiable kind of policy benefit undertaken to be provided under a particular kind of policy;

"component"
means a part of a policy, if any, where that part provides a policy benefit for which an identifiable, separate premium is payable;

"compulsory"
in relation to an annuity, means that there is an obligation in terms of the rules of a fund to enter into a policy which provides the annuity;

"credit scheme"
means a group scheme under which every life insured is indebted to or a surety of the policyholder whose insurable interest as policyholder arises solely from that indebtedness or suretyship;

"fund member policy"
means an individual policy
\begin{itemize}
  \item a) of which a fund is the policyholder;
  \item b) under which a specified member of the fund (or the surviving spouse, children,
dependants or nominees of the member) is the life insured; and

c) which is entered into by the fund exclusively for the purpose of funding that fund’s
d-liability to the member (or the surviving spouse, children, dependants or nominees of
the member) in terms of the rules of that fund;

"group scheme"
means a scheme or arrangement which provides for the entering into of one or more policies,
other than an individual policy, in terms of which two or more persons without an insurable
interest in each other, for the purposes of the scheme, are the lives insured;

"immediate annuity"
means an annuity that is paid under a policy, where the first payment period begins within 12
months after the policy has been entered into;

"independent intermediary"
means a person, other than a representative, rendering services as intermediary;

"individual policy"
means a policy under which a particular person is the life insured, or two or more particular
persons having an insurable interest in each other are the lives insured jointly;

"investment policy"
means a policy other than a policy which is an "excluded policy" as defined in Part 5A;

"m"
means the number of months in a scheme year;

"multiple premium policy"
means a policy under which the premium is payable in two or more amounts;

"policy"
means a long-term policy other than a reinsurance policy;

"policy benefit"
has the meaning assigned to it in the Act, but excludes a loan in respect of the policy, or a
consideration payable upon the full or partial surrender of the policy;

"premium"
in relation to a premium period, means the premium which is payable and received under that
policy in respect of every separately identifiable benefit component of that policy;

"premium-paying term"
in relation to a multiple premium policy, other than a group scheme or fund policy, means the
whole period during which the several amounts of premium are payable, determined by
reference to—

a) the longer of—

i) 10 years; or

ii) the number of complete years in the period extending from the date of

 commencement of the first premium period of the policy to a date—

aa) in the case of a fund member policy, 66 years; or
bb) in any other case, 75 years, after the date of birth of the life insured under the policy; or

b) if it is stated in or ascertainable from the written provisions of the policy at its commencement, and is a shorter period than that determined in accordance with paragraph (a), the shorter of—

i) the particular limited period for which those several amounts of premium are expressed to be payable; or

ii) the period during which those several amounts of premium must be paid before there shall or may—

aa) be provided a policy benefit, otherwise than upon the death of, or upon the occurrence of a health event or a disability event in relation to a life insured under the policy; or

bb) be paid, upon the surrender of the policy, consideration the amount of which is stated in or ascertainable from written provisions of the policy at its commencement;

"premium period"
in relation to a policy other than a group scheme or a fund policy, means one of a succession of periods of time, each of 12 months' duration, the first of which commences on, and ends 12 months after, the date on which the policy is entered into or, if it is a later date, the date on which the obligation of the long-term insurer becomes operative;

"primary commission"
means commission which is payable generally in respect of all policies in accordance with this Part other than secondary commission;

"rendering services as intermediary"
means the performance by a person other than a long-term insurer or a policyholder, on behalf of a long-term insurer or a policyholder, of any act directed towards entering into, maintaining or servicing a policy or collecting, accounting for or paying premiums or providing administrative services in relation to a policy, and includes the performance of such an act in relation to a fund, a member of a fund and the agreement between the member and the fund;

"replacement event"
means a causal event resulting in the levying of a causal event charge in excess of 15% of the investment value or materially equivalent value of a policy, where ‘causal event’, ‘causal event charge’ and ‘investment value’ have the meanings assigned to them in Part 5A and ‘materially equivalent value’ means the value contemplated in sub-regulation 5.2(2)(b) of Part 5A;

"replacement policy"
means a multiple premium policy which is an investment policy, where the policyholder is or was either the policyholder or the life insured in respect of any other investment policy, and where a replacement event occurs in respect of that other investment policy within a period of 4 months before or after the replacement policy is entered into;

"representative"
means a person—

a) employed or engaged by a long term insurer for the purpose of rendering services as intermediary only in relation to policies entered into or to be entered into by –

i) that insurer;
(ii) another insurer which is a subsidiary or holding company of that insurer, or
(iii) another insurer which has entered into a written agreement with that insurer in terms of which persons employed or engaged by that insurer may render services as intermediary in relation to the other insurer’s policies; and;

b) on conditions of employment or engagement complying with the principle of "Equivalence of Reward", in terms whereof the remuneration paid by an insurer, whether in cash or in kind, shall substantially be in accordance with this Part, as determined by the Registrar,

but excludes such a person in respect of whom the Registrar has made a determination under regulation 3.2(5);

"retirement annuity fund" means a retirement annuity fund as defined in the Income Tax Act, 1962;

"Scale A" means the scale of commission set out in Annexure 2 to this Part;

"secondary commission" means commission which is payable, in addition to primary commission, in respect of certain policies only, as provided in and subject to this Part;

"scheme year" in relation to a group scheme or a fund policy, means a period—

a) commencing on the later of—

i) the date that the fund policy or group scheme is entered into with the long-term insurer concerned, or any anniversary of that date;

ii) the date of the appointment of an independent intermediary for the purposes of rendering services as intermediary in relation to the group scheme or fund policy;

b) and ending on the earlier of—

i) the day preceding the commencement of the next scheme year;

ii) the date of termination of the group scheme or fund policy with that long-term insurer; or

iii) the date of termination of the appointment of the independent intermediary rendering services as intermediary in relation to that group scheme or fund policy;

"single premium policy" means a policy under which the premium is payable in one amount only;

"Table" means the Table set out in Annexure 1 to this Part;

"term cover" means a policy under which a long-term insurer undertakes to provide policy benefits only upon—

a) the life of a life insured having ended;

b) the life of a life insured having begun;

c) a health event occurring; or

d) a disability event occurring,
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during a specified period only;

"this Part"
means this Part 3A;

"tied"
in relation to a compulsory annuity, means that there is an obligation to enter into the policy concerned with a particular insurer and no other.

2. General Limitations

1) No consideration shall, directly or indirectly, be provided to, or accepted by or on behalf of, an independent intermediary for rendering services as intermediary, otherwise than by way of the payment of commission in monetary form.

2) No commission shall be paid or accepted otherwise than in accordance generally with this Part and more particularly as specified in the Table.

3) Irrespective of how many persons render services as intermediary in relation to a policy, the total commission payable in respect of that policy shall not exceed the maximum commission payable in terms of regulation 3.4.

4) No secondary commission shall be paid or accepted—
   a) in respect of a single premium policy;
   b) except in the case of a policy and benefit component of a kind specified in items 1.1, 2.1, 3.1 and 5.1 of the Table;
   c) if the policy concerned has terminated before the commencement of its second premium period.

5) The Registrar may by notice determine that a person or long-term insurer is not complying with the principle of "Equivalence of Reward".

3. Time of Payment of Commission

1) Primary commission shall not be paid or accepted before—
   a) the first premium period has commenced; or
   b) the premium in respect of which it is payable has been received by the long-term insurer concerned, except that, in the discretion of that insurer—
      i) in the case of a policy and benefit component of a kind specified in items 1.1, 2.1, 3.1 and 5.1 of the Table, primary commission may be paid and accepted in one or more amounts after the policy has been entered into;
      ii) in the case of a group scheme or fund policy, primary commission in respect of a particular scheme year may be paid and accepted in one or more amounts after the policy has been entered into; and
      iii) in any other case, primary commission in respect of a particular premium period may be paid in one or more payments and accepted after the
2) Secondary commission may be paid and accepted in one or more amounts after the second premium period has commenced, at the discretion of the long-term insurer.

3) If the full amount of primary or secondary commission is paid in more than one amount aggregating to that full amount, the long-term insurer concerned may pay interest at 15 per cent per annum, or such other rate of interest as may be prescribed by the Registrar from time to time, compounded annually from the earliest date on which the full amount could have been paid, on any outstanding amount, until the full amount has been paid.

4. Maximum Commission Payable

1) No primary commission shall exceed, in respect of each kind of policy and benefit component specified in column 2 of the Table, an amount arrived at by applying, in the case of—
   a) single premium policy, other than a fund policy and a group scheme, the percentage specified in column 3 of the Table to the amount of the premium concerned;
   b) a multiple premium policy, other than a fund policy and a group scheme, the percentage specified in column 4 of the Table to the total amount of the premium payable during the premium paying term, calculated as if the premium payable during the first premium period were payable at that level throughout the premium paying term of the policy, which commission may be paid and accepted in one or more amounts at the discretion of the long-term insurer: Provided that such commission shall not exceed, in the case of a policy and benefit component specified in items 1.1, 2.1, 3.1 and 5.1 of the Table, an amount equal to the percentage specified in column 5 of the Table of the premium payable during the first premium period of the policy; or
   c) a fund policy or a group scheme, an amount which shall not exceed \( \frac{12}{m} \) of the aggregate commission on the annualised premium as provided for in Scale A.

2) No secondary commission shall exceed one-third of the amount of the primary commission paid in respect of the policy and benefit component concerned: Provided that if such commission is paid and accepted in more than one amount, the value thereof discounted at 15 per cent per annum, or such other rate of interest as may be prescribed by the Registrar from time to time, compounded annually to the beginning of the second premium period of the policy, shall not exceed one third of the value of the primary commission excluding interest.

5. Adjustment and Refund of Commission

1) If the provisions of a multiple premium policy are varied so that the total amount of the premium which was payable during the premium-paying term of the policy and which was used for the purpose of the calculation of commission in terms of regulation 3.4(1)(b), is, for any reason—
a) increased, the primary and secondary commission payable in relation to that increase shall be dealt with in terms of this Part as if—
   i) the total amount of the increase payable during the remainder of the premium-paying term were the only premium payable under the policy; and
   ii) the premium period in which that variation becomes operative were the first premium period of the policy; or

b) reduced, with effect from a date before the end of the second premium period of the policy—
   i) the primary commission previously calculated in terms of regulation 3.4(1)(b) to be payable shall be recalculated in accordance with this Part in relation to the total amount of premium as so reduced and any amount of commission which has been paid, or would have been payable had the reduction not occurred, and which exceeds the amount payable in accordance with the recalculation, shall be determined by the insurer concerned; such part of that amount as exceeds the percentage in column A of the Table in subregulation (2) shall be reversed and, if already paid, shall be refunded to the insurer by the person to whom it was paid;
   ii) the secondary commission previously calculated in terms of regulation 3.4(2) to be payable, shall be recalculated in accordance with this Part in relation to the total amount of primary commission as reduced in accordance with subparagraph (i) and any amount of commission which has been paid, or would have been payable had the reduction not occurred, and which exceeds the amount payable in accordance with the recalculation shall be determined by the insurer concerned; such part of that amount as exceeds the percentage in column B of the Table in subregulation (2) shall be reversed and, if already paid, shall be refunded to the insurer by the person to whom it was paid.

2) If a premium or any part thereof is—
   i) for any reason refunded by the long-term insurer or, in the case of a multiple premium policy which is not—
      aa) a fund policy; or
      bb) a fund member policy other than a fund member policy which funds a retirement annuity fund, or
      cc) a policy in respect of which commission has been paid only after each premium in respect of which it is payable has been received by the long-term insurer concerned (including but not limited to a replacement policy),
   for any reason not paid on its due date, including that the policy has been made paid-up or surrendered, but excluding termination upon a health event, a disability event or the death of a life insured, during the first two premium periods in the case of a policy referred to in items 1.1, 2.1, 3.1 and 5.1 of the Table, the commission payable in terms of this Part shall be recalculated by reference to the scale and shall not exceed the percentage of maximum commission in column A or B, respectively, and any amount of commission which has already been paid in excess of the commission as so recalculated, shall be reversed by the long-term insurer and refunded to it by the person to whom it was paid :

<table>
<thead>
<tr>
<th>Premiums received</th>
<th>Column A</th>
<th>Column B</th>
</tr>
</thead>
<tbody>
<tr>
<td>1234</td>
<td>5678</td>
<td>9012</td>
</tr>
</tbody>
</table>
Regulations

<table>
<thead>
<tr>
<th>with an equivalent value to monthly premiums for—</th>
<th>Maximum percentage of primary commission payable—</th>
<th>Maximum percentage of secondary commission payable—</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 6 months</td>
<td>nil</td>
<td>not applicable</td>
</tr>
<tr>
<td>7 months</td>
<td>29,17</td>
<td>not applicable</td>
</tr>
<tr>
<td>8 months</td>
<td>33,33</td>
<td>not applicable</td>
</tr>
<tr>
<td>9 months</td>
<td>37,5</td>
<td>not applicable</td>
</tr>
<tr>
<td>10 months</td>
<td>41,67</td>
<td>not applicable</td>
</tr>
<tr>
<td>11 months</td>
<td>45,83</td>
<td>not applicable</td>
</tr>
<tr>
<td>12 months</td>
<td>50</td>
<td>not applicable</td>
</tr>
<tr>
<td>13 months</td>
<td>54,17</td>
<td>8,3</td>
</tr>
<tr>
<td>14 months</td>
<td>58,33</td>
<td>16,7</td>
</tr>
<tr>
<td>15 months</td>
<td>62,5</td>
<td>25</td>
</tr>
<tr>
<td>16 months</td>
<td>66,67</td>
<td>33,3</td>
</tr>
<tr>
<td>17 months</td>
<td>70,83</td>
<td>41,7</td>
</tr>
<tr>
<td>18 months</td>
<td>75</td>
<td>50</td>
</tr>
<tr>
<td>19 months</td>
<td>79,17</td>
<td>58,3</td>
</tr>
<tr>
<td>20 months</td>
<td>83,33</td>
<td>66,7</td>
</tr>
<tr>
<td>21 months</td>
<td>87,5</td>
<td>75</td>
</tr>
<tr>
<td>22 months</td>
<td>91,67</td>
<td>83,3</td>
</tr>
<tr>
<td>23 months</td>
<td>95,83</td>
<td>91,7</td>
</tr>
<tr>
<td>24 months</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

ii) in the case of any policy not mentioned in subparagraph (i) for any reason refunded by the long-term insurer, or for any reason not paid on its due date, any commission paid by the long-term insurer shall be reversed and refunded to the person to whom it was paid.

<table>
<thead>
<tr>
<th>Premiums with an equivalent value to annual premiums received for—</th>
<th>Column A</th>
<th>Column B</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Percentage of maximum primary commission payable—</td>
<td>Percentage of maximum secondary commission payable—</td>
</tr>
<tr>
<td>0 - 11 months</td>
<td>Not regulated</td>
<td>not applicable</td>
</tr>
<tr>
<td>12 - 23 months</td>
<td>20</td>
<td>Nil</td>
</tr>
<tr>
<td>24 - 35 months</td>
<td>40</td>
<td>25</td>
</tr>
<tr>
<td>36 - 47 months</td>
<td>60</td>
<td>50</td>
</tr>
<tr>
<td>48 - 59 months</td>
<td>80</td>
<td>75</td>
</tr>
<tr>
<td>More than 60 months</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

iii) in the case of any policy not mentioned in subparagraph (i) or (ii), for any
b) Subparagraphs (i), (ii) and (iii) of paragraph (a) shall—
   i) not apply to the extent that, and for so long as, payment of an unpaid premium is effected by means of the maintenance of the policy in force as contemplated in section 52(2) or (3);
   ii) be deemed not to have been applicable if, and to the extent that, any premium or part thereof which was unpaid is later paid to the long-term insurer, and in that event any reversed commission refunded to the long-term insurer may again be paid to the person by whom it was refunded.

6. Special Provisions concerning Fund and Fund Member Policies

1) No commission shall be paid or accepted in relation to so much of the premium payable under a fund policy as has already borne commission under a prior, substituted fund policy.

2) The commission payable in respect of a fund policy or a fund member policy, as provided for in this Part shall be reduced by the value of any consideration provided by the fund concerned, or its members, for services rendered as intermediary in connection with the agreement whereby the fund assumed the obligation concerned to the member.

7. Commission when Policy has Different Benefit Components

If, in respect of a policy which comprises more than one benefit component, it is not specified in or ascertainable from the written provisions of the policy what portion of the total premium payable is attributable to the different benefit components, the commission payable in terms of this Part shall not exceed that which would have been so payable had the policy comprised, and had the total premium been attributable to, only that benefit component which most closely reflects the main purpose of the policy to the exclusion of other subordinate purposes of the policy.

8. Voidness of certain Agreements

Any agreement, scheme or arrangement to provide consideration for the rendering of services as intermediary otherwise than in accordance with this Part, shall be void.
9. Special provisions concerning replacement policies

1) Commission may only be paid in respect of a replacement policy as a level percentage of the premiums received, and may only be paid once the premium in respect of which it is payable has been received by the long-term insurer concerned, whether or not —
   a) the replacement policy comprises more than one benefit component; or
   b) the portion of the total premium attributable to the different benefit components of the replacement policy is specified in or ascertainable from the written provisions of the policy.

2) a) The total amount of commission paid on a replacement policy may not exceed the total of the primary and secondary commission that would have been payable in terms of this Part in respect of a policy other than a replacement policy; and
   b) in determining such total amount, the long-term insurer concerned may include interest at 15 per cent per annum, or such other rate of interest as may be prescribed by the Registrar from time to time, compounded annually from the earliest date on which the full amount of primary or secondary commission could have been paid if the policy was not a replacement policy, until such full amount has been paid.

3) In the event of commission on a replacement policy being paid or accepted otherwise than in accordance with this Part, whether due to the fact that the long-term insurer was not aware at the time of payment that the policy in question was a replacement policy, or for any other reason, then any commission paid by the long-term insurer in excess of the commission payable in accordance with this Part, or paid earlier than permitted in this Part, shall upon identification of the excess or early payment, be reversed and refunded to the long-term insurer by the person to whom it was paid.

Annexure 1 : Table

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Kind of policy or benefit component</th>
<th>Maximum Percentage</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single Premium Policy</td>
<td>Multiple Premium Policy</td>
<td>Upfront Payment:Reg 3.3(b)(i) Applicable</td>
</tr>
<tr>
<td>Column 1</td>
<td>Column 2</td>
<td>Column 3</td>
<td>Column 4</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td></td>
<td>Individual policy, not elsewhere specified</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>------------------------------------------</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>1.1</td>
<td>not immediate annuity</td>
<td>3.0</td>
<td>3.25</td>
</tr>
<tr>
<td>1.2</td>
<td>immediate annuity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.2.1</td>
<td>not compulsory</td>
<td>1.5</td>
<td>n/a</td>
</tr>
<tr>
<td>1.2.2</td>
<td>compulsory, not tied</td>
<td>1.5</td>
<td>n/a</td>
</tr>
<tr>
<td>1.2.3</td>
<td>compulsory, tied</td>
<td>nil</td>
<td>n/a</td>
</tr>
<tr>
<td>2.1</td>
<td>Fund member policy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1.1</td>
<td>funding a retirement annuity fund</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1.2</td>
<td>upon entry, a transfer from a fund other than a retirement annuity fund to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1.2.1</td>
<td>a fund chosen by the member</td>
<td>1.5</td>
<td>n/a</td>
</tr>
<tr>
<td>2.1.2.2</td>
<td>a fund not chosen by the member</td>
<td>nil</td>
<td>n/a</td>
</tr>
<tr>
<td>2.1.3</td>
<td>upon entry, a transfer from another retirement</td>
<td>nil</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Regulations</td>
<td>annuity fund</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.2</td>
<td>not funding a retirement annuity fund</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.2.1</td>
<td>upon entry, not a transfer</td>
<td>2.5</td>
<td>3.0</td>
</tr>
<tr>
<td>2.2.2</td>
<td>upon entry, a transfer from another fund</td>
<td>1.5</td>
<td>n/a</td>
</tr>
<tr>
<td>3</td>
<td>Life policy providing term cover only, which is</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.1</td>
<td>an individual policy</td>
<td>7.5</td>
<td>3.25</td>
</tr>
<tr>
<td>3.2</td>
<td>incorporated in a group scheme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.2.1</td>
<td>which is a credit scheme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.2.1.1</td>
<td>with administrative work</td>
<td>22.5</td>
<td>22.5</td>
</tr>
<tr>
<td>3.2.1.2</td>
<td>without administrative work</td>
<td>7.5</td>
<td>7.5</td>
</tr>
<tr>
<td>3.2.2</td>
<td>which is not a credit scheme</td>
<td>Scale A</td>
<td>Scale A</td>
</tr>
<tr>
<td>4</td>
<td>Fund Policy</td>
<td>Scale A</td>
<td>Scale A</td>
</tr>
<tr>
<td>5</td>
<td>Health policy and disability policy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.1</td>
<td>Individual, other than term cover</td>
<td>3.0</td>
<td>3.25</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>5.2</td>
<td>term cover only</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.2.1</td>
<td>individual</td>
<td>7.5</td>
<td>3.25</td>
</tr>
<tr>
<td>5.2.2</td>
<td>incorporated in a group scheme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.2.2.1</td>
<td>which is a credit scheme</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.2.2.1.1</td>
<td>with administrative work</td>
<td>22.5</td>
<td>22.5</td>
</tr>
<tr>
<td>5.2.2.1.2</td>
<td>without administrative work</td>
<td>7.5</td>
<td>7.5</td>
</tr>
<tr>
<td>5.2.2.2</td>
<td>which is not a credit scheme</td>
<td>Scale A</td>
<td>Scale A</td>
</tr>
<tr>
<td>6</td>
<td>Sinking fund policy</td>
<td>3.0</td>
<td>3.0</td>
</tr>
<tr>
<td>7</td>
<td>Assistance policy</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

**Notes to Annexure 1:**

- An asterisk (*) denotes "excluding a replacement policy"
- A dash (-) denotes that there is no limit
- "nil" denotes that no commission may be paid
- A policy, other than one that provides an immediate annuity, that is a fund member policy or a fund policy falls under item 2 or 4, as the case may be, irrespective whether it can fall also under another item. A policy that provides an immediate annuity that is a fund member policy or a fund policy attracts the commission referred to in item 1.2
- Item 2.1.2.1 applies with effect from 1 March 2007.
1. Normal Commission

<table>
<thead>
<tr>
<th>Maximum Commission as percentage of annualised premium under a group scheme or fund policy</th>
<th>Annualised premium of which the Amount—</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Exceeds</td>
<td>Does not Exceed</td>
</tr>
<tr>
<td>%</td>
<td>R</td>
<td>R</td>
</tr>
<tr>
<td>7,5</td>
<td>142 000</td>
<td></td>
</tr>
<tr>
<td>5,0</td>
<td>245 000</td>
<td>529 000</td>
</tr>
<tr>
<td>3,0</td>
<td>529 000</td>
<td>1 550 000</td>
</tr>
<tr>
<td>2,0</td>
<td>1 550 000</td>
<td>Unlimited</td>
</tr>
<tr>
<td>1,0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Special Commission

In addition to the normal commission contemplated in paragraph 1, there may be paid, once only and only in respect of the period of 12 months following the date on which the group scheme or fund policy is established, a special commission equal to the lesser of—

a) 7,5 per cent of the total premium payable during that period of 12 months;
b) R5 000.

Part 3B: Investment Policies that started on or after 1 January 2009

10. Application of this Part 3B, and definitions

1) This Part 3B applies to investment policies that started on or after 1 January 2009, but except only for purposes of regulation 3.15(4), does not apply to risk components of such investment policies.

2) In this Part 3B, unless defined differently in this Part 3B or unless the context indicates otherwise, any word or expression to which a meaning has been assigned in Part 3A or 58 has the meaning assigned to it in that Part, and—

'discount term', in relation to a multiple premium policy, means the period that begins on the premium commencement date and:

a) in the case of a fund member policy, is a period of 25 years or, if it is shorter, the period for which the premium is to be paid specified in the policy, or determinable from its written provisions, as at the start of the policy; or

b) in the case of a policy other than a fund member policy, is a period of 15 years or, if it is shorter, the period for which the premium is to be paid specified in the policy, or determinable from its written provisions, as at the start of the policy;

'fund member policy' has the meaning assigned to it in Part 5A;
'insurer' means a long-term insurer;
'investment policy' has the meaning assigned to it in Part 5B;
'member' has the meaning assigned to it in Part 5A;
'payment date', in relation to a premium, means the date on which that premium must be paid in terms of the policy;
'preservation fund' means a pension preservation fund or a provident preservation fund, which terms have the meanings assigned to it in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);
'risk component' means a component that on its own constitutes an excluded policy;
'Table' means the table accompanying this Part; and
'this Part' means this Part 3B.

11. General prescriptions

1) Remuneration for rendering services as intermediary may be paid by or on behalf of an insurer, and received by an independent intermediary—
   a) only in accordance with this Part;
   b) only after the policy has started; and
   c) only as commission in monetary form.

2) Remuneration for rendering services as intermediary, whether in cash or in kind, may be paid by or on behalf of an insurer to its representatives only on a basis of equivalence of reward, and must be paid substantially in accordance with this Part.
   a) The Registrar may by notice in the Government Gazette determine that an insurer is not complying with paragraph (a).

3) The total commission per policy may not exceed the maximum prescribed by this Part, irrespective whether more than one independent intermediary or representative renders services in respect of that policy.

4) If a policy has two or more components, each component must for the purposes of this Part, and where applicable, for the purposes of Part 3A, be dealt with as if it were a separate policy.

5) If a policy (that does not have two or more components) or a component provides more than one type of policy benefit, and one or more of these benefits is a benefit other than a risk benefit, the maximum commission in respect of that policy or component must be determined in accordance with this Part.

6) Any agreement, scheme or arrangement to offer, provide, accept, pay, or receive remuneration, otherwise than in accordance with this Part, is void.

12. Maximum commission

1) The maximum commission that may be paid in respect of a multiple premium policy, is an
amount equal to 5% of each premium.

2)  
   a) Subject to paragraph (b), the maximum commission that may be paid in respect of a single premium policy is an amount equal to 3% of the premium.
   b) The maximum commission that may be paid in respect of a single premium policy—
      i) of which the policy benefit is an immediate annuity, is an amount equal to 1.5% of the premium;
      ii) that is a fund member policy which funds a retirement annuity fund, upon a transfer from a fund other than a retirement annuity fund, is an amount equal to 1.5% of the premium;
      iii) that is a fund member policy which funds a retirement annuity fund, upon a transfer from a retirement annuity fund, is nil;
      iv) that is a fund member policy which funds a preservation fund, upon a transfer from a fund other than a preservation fund, is an amount equal to 1.5% of the premium;
      v) that is a fund member policy which funds a preservation fund, upon a transfer from a preservation fund, is nil;
      vi) that is a fund member policy, which does not fund a retirement annuity fund or a preservation fund, upon a transfer from another fund, is an amount equal to 1.5% of the premium.

13. Time of payment of commission

1) Commission in respect of a premium may be paid only on or after the payment date of that premium.

2) Despite sub-regulation (1), an insurer, at its discretion, may discount commission in respect of a multiple premium policy in terms of regulation 3.15, and pay the discounted commission at any time after the policy has started.

3)  
   a) An insurer, at its discretion, may pay commission in two or more instalments, provided that the sum of the instalments, before any increase in terms of paragraph (b), does not exceed the maximum commission referred to in regulation 3.12.
   b) Where commission is paid in two or more instalments, the insurer, at its discretion, may increase any installment at an annual effective rate of not more than 6% from the date the commission becomes payable to the date on which that installment is paid.

14. Premium increases and additional premiums

If the premium is increased in accordance with the terms of the policy as at the start of the policy or as amended from time to time, or if an additional premium is paid, the discounted and undiscounted commission in respect of the increased portion of the premium or in respect of the additional premium must, except for the purpose of sub-regulation 3.15(4), be dealt with as if—
   a) the increased portion of the premium, or the additional premium, were a premium
Regulations

payable or paid under a separate policy; and
b) that separate policy starts on the first or only payment date of the increased portion of the premium or the additional premium.

15. Discounting of commission

1) In the case of a multiple premium policy the insurer, at its discretion, may discount a portion of the commission in respect of every premium of which the payment date falls within the discount term: Provided that an insurer, at its discretion, may discount a portion of the commission in respect of every premium of which the payment date falls within a shorter period than the discount term, in which case that shorter period will be regarded as the discount term for purposes of that policy.

2) The maximum portion of the commission that may be discounted in respect of each premium is an amount equal to 2,5% of that premium, and the portion of commission that is discounted must be the same proportion of every premium.

3) The discounting must be done—
   a) once only and only at the start of the policy, and this may be done also at the payment of an additional premium and at the start of payment of an increased premium, as contemplated in regulation 3.14;  
   b) from the payment date of each premium to the premium commencement date, at an annual effective rate of not less than 6%.

4) Despite sub-regulation (2), but subject to regulation 3.12(1), if the commission discounted for the policy, or where the policy at its start has two or more components the aggregate commission discounted for all the components (including risk components), comes to less than four hundred Rand, the insurer, at its discretion, may discount a larger portion of the commission in respect of all the premiums, at a level higher than 2,5% of each premium, to allow for a discounted commission for the policy, or an aggregate discounted commission for all the components of the policy (including risk components), of not more than four hundred Rand.

5) The discounting in terms of sub-regulation (4) may be done once only and only at the start of the policy, but not at the payment of an additional premium or at the start of an increased premium, as contemplated in regulation 3.14.

16. Redirecting of commission

1) A policyholder (excluding a person to whom the policy has been ceded as security) or member may at any time during the life of an investment policy instruct the insurer in writing to stop paying further discounted and undiscounted commission to an independent intermediary or a representative, provided that as part of that instruction the policyholder or member also must instruct the insurer—
   a) to pay the further commission to another independent intermediary, nominated by the policyholder or member in that instruction, who has a contract with the insurer for
rendering services as intermediary in respect of policies of the insurer of the type of policy in question; or

b) to pay the applicable portion of the further commission, in accordance with the principle of equivalence of reward referred to in regulation 3.11(2), to another representative of the insurer nominated by the policyholder or member in that instruction, who is approved by the insurer to render services as intermediary in respect of the policy in question; or

c) to pay the applicable portion of the further commission, in accordance with the principle of equivalence of reward referred to in regulation 3.11(2), to another representative of the insurer to be appointed by the insurer to render services as intermediary to the policyholder or member in respect of the policy in question.

2) The insurer must, at no additional cost to the policyholder, comply with an instruction contemplated in sub-regulation (1).

17. Adjustment and refund of commission

1) If, within 5 years after the premium commencement date, the premium is stopped or decreased - for any reason other than where the policy ends on account of a disability event, a health event, or the death of a life insured - the insurer must reverse a proportion of any discounted commission payable or paid on premiums received.

2) The proportion of commission to be reversed based on premiums received as contemplated in terms of sub-regulation (1), must be calculated by applying the applicable adjustment percentage in column 2 of the Table to the ratio that the premium decrease bears to the premium in respect of which the discounted commission first was calculated.

3) If a premium or a part of it, of which the payment date falls within 5 years after the premium commencement date, is not paid to the insurer or is paid back by the insurer - for any reason other than where the premium is stopped or decreased, or where the policy ends on account of a disability event, a health event, or the death of a life insured - the insurer must reverse any discounted commission payable or paid in respect of that premium or part of it.

4) If a premium or a part of it, whether its payment date falls within or after 5 years after the premium commencement date, is not paid to the insurer or is paid back by the insurer, the insurer must reverse any undiscounted commission paid in respect of that premium or part of it.

5) 

a) If discounted or undiscounted commission paid to an independent intermediary or a representative is reversed in terms of sub-regulation (1), (3) or (4), the independent intermediary or representative must pay it back to the insurer.

b) If commission has been paid back to the insurer in terms of paragraph (a), and the premium in question or part of it is paid to the insurer thereafter, the insurer may again pay that commission to the independent intermediary or representative.

6) Sub-regulations (1) to (5) do not apply to the extent that, and for as long as, the policy is maintained in terms of section 52(2), but not made paid-up.
### Table
**Regulation 3.17(2)**

<table>
<thead>
<tr>
<th>Column 1 Premiums received with a value equivalent to monthly premiums for</th>
<th>Column 2 Adjustment percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 months</td>
<td>100</td>
</tr>
<tr>
<td>1 month</td>
<td>100</td>
</tr>
<tr>
<td>2 months</td>
<td>100</td>
</tr>
<tr>
<td>3 months</td>
<td>100</td>
</tr>
<tr>
<td>4 months</td>
<td>100</td>
</tr>
<tr>
<td>5 months</td>
<td>100</td>
</tr>
<tr>
<td>6 months</td>
<td>100</td>
</tr>
<tr>
<td>7 months</td>
<td>88,33</td>
</tr>
<tr>
<td>8 months</td>
<td>86,67</td>
</tr>
<tr>
<td>9 months</td>
<td>85</td>
</tr>
<tr>
<td>10 months</td>
<td>83,33</td>
</tr>
<tr>
<td>11 months</td>
<td>81,67</td>
</tr>
<tr>
<td>12 months</td>
<td>80</td>
</tr>
<tr>
<td>13 months</td>
<td>78,33</td>
</tr>
<tr>
<td>14 months</td>
<td>76,67</td>
</tr>
<tr>
<td>31 months</td>
<td>48,33</td>
</tr>
<tr>
<td>32 months</td>
<td>46,67</td>
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<tr>
<td>33 months</td>
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<td>34 months</td>
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<td>35 months</td>
<td>41,67</td>
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<td>36 months</td>
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<td>37 months</td>
<td>38,33</td>
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<tr>
<td>38 months</td>
<td>36,67</td>
</tr>
<tr>
<td>39 months</td>
<td>35</td>
</tr>
<tr>
<td>40 months</td>
<td>33,33</td>
</tr>
<tr>
<td>41 months</td>
<td>31,67</td>
</tr>
<tr>
<td>42 months</td>
<td>30</td>
</tr>
<tr>
<td>43 months</td>
<td>28,33</td>
</tr>
<tr>
<td>44 months</td>
<td>26,67</td>
</tr>
<tr>
<td>45 months</td>
<td>25</td>
</tr>
</tbody>
</table>
### 18. Replacement policies

1) Commission may not be discounted in respect of a replacement policy.

2) In the event of commission in respect of a replacement policy having been paid otherwise than in accordance with this Part, whether because the insurer at the time of the payment was not aware that the policy in question was a replacement policy, or for any other reason, then any commission paid by the insurer in excess of the maximum that may be paid in accordance with this Part, or paid earlier than permitted in this Part, must, upon identification of the payment, be reversed and paid back to the insurer by the person to
Part 4. Limitation on Provisions of Certain policies

1. Definitions

In this part—

"excess premium"
means a premium which is received by, or which becomes due to, a long-term insurer during a premium period, and which—
   a) by itself exceeds;
   b) when aggregated with all premiums already received, and still to be received, during that premium period, exceeds; or
   c) is the first of increased recurrent premiums which, if it had been received by the long-term insurer at that increased rate during that premium period, would have caused the total value of the premiums received by the long-term insurer during that premium period to exceed,

by a rate of more than 20 per cent, the higher of the total value of the premiums received by the long-term insurer during any one of the two premium periods immediately preceding that premium period: Provided that if a premium is increased during the second premium period, the percentage increase shall be determined in relation to the first premium period only;

"extended restriction period"
means a restriction period—
   a) which has not expired;
   b) which includes every earlier restriction period any part of which runs concurrently with it; and
   c) the commencement date of which, from time to time, is the commencement date of the earliest restriction period which runs concurrently with it;

"free surrender value"
means the value of the consideration which the long-term insurer would provide if the policy is surrendered on the day preceding the date of commencement of an extended restriction period;

"fund member policy"
means a long-term policy other than a fund policy—
   a) of which a fund is the sole policyholder;
   b) under which a specified member of the fund (or the surviving spouse, child, dependent or nominee of the member) is the life insured;
   c) which is entered into by the fund for the purpose of exclusively funding the funds' liability to that member (or the surviving spouse, dependants or nominees of the member) in terms of the rules of the fund; and
   d) if the fund holding the policy is a fund contemplated in paragraph (c) of the definition of "benefit fund" in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), only in so far as provision is made therein for unemployment benefits;

"linked benefit"
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means a policy benefit, the value of which is not guaranteed by the long-term insurer and is determined solely by reference to the value of particular assets or particular categories of assets which are specified in the policy and which are actually held by or on behalf of the long-term insurer specifically for the purpose of the policy;

"policy" means a long-term policy, whether entered into before or after the commencement of this Act, excluding—
   a) a reinsurance policy;
   b) a fund policy; or
   c) a fund member policy, for as long as no right under the policy is transferred by the fund to a life insured under the policy, or is transferred to any person except another fund for the direct or indirect benefit of a life insured under the policy;

"policy benefit" means one or more sums of money, services or other benefits, including an annuity, but excluding a loan in respect of a policy or consideration upon the surrender of a policy;

"premium" means the premium which is stipulated in the policy, or otherwise agreed upon between the parties to the policy, to be provided to the long-term insurer, including any part of a premium;

"premium period" means one of a succession of periods, each of 12 months' duration, the first of which begins on, and ends 12 months after, the first day of the month in which the first premium, or any part thereof, is received by the long-term insurer or, if it is a later date, the first day of the month in which the undertaking of the long-term insurer to provide policy benefits under the policy, becomes operative;

"restricted amount" means an amount equal to—
   a) the aggregate of the free surrender value, and the total value of the premiums received by the long-term insurer during the extended restriction period concerned, plus interest on the free surrender value and each premium at the rate of 5 per cent per annum compounded annually; less
   b) the aggregate of all payments already made by the long-term insurer in respect of the policy, whether as a policy benefit (other than a policy benefit referred to in subregulation (2) of regulation 4.2) or upon the surrender of any part of the policy, during the extended restriction period concerned, plus interest on each payment at 5 per cent per annum compounded annually;

"restriction period" means a period of 5 years which commences, if the date concerned is 1 January 1994 or later—
   a) on the date when the first premium period begins; or
   b) during a premium period after the first such period, on the first day of the month in which an excess premium is received by the insurer.
2. Limitations on Policies

1) Subject to subregulations (2), (3), (4) and (5), a long-term insurer, and any person who acts as intermediary between a long-term insurer and any person in respect of a policy or proposal for a policy, shall not undertake to provide, or provide—
   a) a policy benefit under a policy during an extended restriction period;
   b) upon the full or partial surrender of a policy during an extended restriction period—
      i) if the policy has previously been partially surrendered during the extended restriction period concerned, any further consideration;
      ii) if the policy has not been previously partially surrendered during the extended restriction period concerned, any consideration the value of which exceeds the restricted amount less the capital (excluding capitalised interest) of a loan already provided in respect of the policy during that extended restriction period:
         Provided that where the policy is fully surrendered and the full value of the consideration to be provided thereupon exceeds the amount thus determined by not more than R2 500 the full consideration may be provided;
   c) a loan under or on security of a policy during an extended restriction period—
      i) if such a loan has previously been provided in respect of the policy during the extended restriction period concerned; or
      ii) if such a loan has not previously been provided in respect of the policy during the extended restriction period concerned, the amount of which exceeds the restricted amount; or
   d) directly or indirectly, by means of one or more policies, during an extended restriction period, any benefit (whether as policy benefits or loans in respect of policies or consideration upon the surrender of policies, or any combination thereof) which achieves substantially the result that is achieved by an annuity, but which is not, and is not expressly stipulated in the policy or policies to be, an annuity.

2) Subregulation (1)(a) shall not apply to a policy benefit which is to be provided and is provided under the policy upon—
   a) the life of a life insured having ended;
   b) the life of a life insured having begun;
   c) a health event occurring; or
   d) a disability event occurring.

3) Subparagraph (1)(a) shall not apply to a policy benefit which is an annuity—
   a) the payments of which are to be made, and are made, at intervals not exceeding 12 months;
   b) at least one of the payments of which is to be made and, except due to the prior death of the life insured, is made, within 31 days before the expiry of the extended restriction period concerned; and
   c) the total amount of the payments of which in any period of 12 months does not differ, by a rate of more than 20 per cent, from the total amount of the payments thereof in the immediately preceding period of 12 months, except in the case of an annuity—
      i) which constitutes a linked benefit, where the difference, during the period concerned, results solely from the determination of the value of the relevant assets;
      ii) payable in terms of a policy with two or more policyholders or lives insured and where the difference results solely from a reduction in the annuity payable
during the period concerned consequent upon the death of one of those policyholders or lives insured; or

iii) where the difference results solely from a reduction in the annuity payable during the period concerned consequent upon the surrender of a part of the policy.

4) Subregulation (1) shall not apply in the event of—
   a) the death, placement under curatorship or sequestration of the estate of a policyholder who is a natural person; or
   b) the winding-up, liquidation, placement under curatorship or judicial management, by an order of Court, of a policyholder which is a juristic person.

5) Subregulation (1)(c) and (d) shall not apply to a premium advance made under non-forfeiture provisions in a policy.

3. General Exclusion

This Part shall not apply in respect of anything done, before or after the commencement of this Part, in relation to a policy entered into before the commencement of this Part if, from a date prior to 1 March 1993, the policy expressly provided, in writing, for it to be done.

Part 5. Requirements and limitations regarding the values and benefits of policies

Part 5A: Policies other than policies to which Part B applies

1. Application of this Part 5A, and definitions

This Part 5A applies to policies other than policies to which Part 5B applies, and in this Part 5A, unless the context indicates otherwise –

"actuarial basis", in relation to a policy, means the underlying actuarial rules, specifications and formulae in terms of which the policy operates, which:
   a) in compliance with the Act, are approved by the statutory actuary of the insurer, in particular for the purposes of sections 46 and 52; and
   b) if and while the Insurance Act, 1943 applied to the policy, in compliance with that Act, were approved by the valuator of the insurer, in particular for the purposes of sections 34 and 62(2) of that Act;

"basic premium" means the premium, including a premium paid by virtue of a premium-waiver benefit, less charges (if any) deductible from the premium for rider-benefits;

"basic risk benefit" means a risk benefit for which the charge is determined periodically with reference to changes in factors pertaining to the risk, including but not limited to the age of the life insured, the amount of the risk cover, or the investment value of the policy, but excluding a rider-benefit;
"benefit" means a policy benefit, including a consideration payable upon the full or partial surrender of a policy, but excluding a loan in respect of a policy;

"causal event", in relation to a policy, means one of the following events:
   a) the policy becomes fully paid-up;
   b) the basic premium is reduced, without the policy thereby coming to an end or becoming fully paid-up;
   c) the remaining policy term or the remaining premium-paying term is reduced, without the policy thereby coming to an end or becoming fully paid-up;
   d) the policy is surrendered in part, other than for the purpose of a transfer from one fund to another in terms of section 14 of the Pension Funds Act, 1956, or a part of the policy comes to an end for another reason (other than because risk cover under the policy has come to an end);
   e) the policy, in the case of a fund member policy, is surrendered in part for the purpose of a transfer from one fund to another in terms of section 14 of the Pension Funds Act, 1956;
   f) the policy is surrendered in full, other than for the purpose of a transfer from one fund to another in terms of section 14 of the Pension Funds Act, 1956, or the policy comes to an end for another reason (other than because the policy has reached its maturity date); or
   g) the policy, in the case of a fund member policy, is surrendered in full for the purpose of a transfer from one fund to another in terms of section 14 of the Pension Funds Act, 1956;

"causal event charge" means a charge occasioned by and pertaining to a causal event;

"charge" means a charge stipulated in a policy or its actuarial basis, whether or not the actuarial basis has been expressly incorporated in the policy, which charge is deductible in respect of the policy in accordance with its terms or actuarial basis;

"come to an end" means that the final benefit under a policy has become payable, including in the case of a fund member policy for the purpose of a transfer from one fund to another in terms of section 14 of the Pension Funds Act, 1956, or that the policy has lapsed without a benefit becoming payable;

"dependant" has the meaning assigned in section 1 of the Pension Funds Act, 1956;

"effective date" means 1 December 2006;

"excluded policy" means:
   a) a fund policy;
   b) a reinsurance policy;
   c) a policy that provides risk benefits only;
   d) a whole-life policy that provides risk benefits and has an investment value or a materially equivalent value referred to in regulation 5.2(2)(b), and in respect of which policy, immediately before a causal event, the ratio of the aggregate of the sums insured of all basic risk benefits to the monthly basic premium (or the monthly equivalent where recurring premiums are not paid monthly) is greater than the threshold ratio in the table below:

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<tr>
<th>Age next birthday of the</th>
<th>Threshold ratio</th>
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e) and any other policy that provides primarily risk benefits;

"fund member policy" means a policy —
  a) of which a fund is or was the policyholder; and
  b) which is or was entered into by the fund for the purpose of funding exclusively the

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<th>life insured at the inception of the policy</th>
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<td>60 and above</td>
<td>120</td>
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fund’s liability to a particular member (or to the surviving spouse, children, dependants or nominees of the member) in terms of the rules of the fund;

"growth rate" means, over a given period, the positive or negative investment return declared for a portfolio, which investment return is net of those portfolio charges that are deducted before the declaration of the investment return, and in the case where a bonus is declared is inclusive of vested and non-vested bonuses;

"insurer" means a long-term insurer;

"investment value" means the value of a policy:

a) calculated using a method commonly referred to as a back-end loaded basis, by accumulating the basic premium less deductions at the growth rate that applies to the policy, which deductions comprise:
   i) benefits paid, excluding basic risk benefits and rider-benefits;
   ii) charges for basic risk benefits;
   iii) charges deducted when benefits are paid or the policy is altered;
   iv) charges stipulated as a fixed amount, which amount, over the full term of the policy, is designed to remain unchanged or is designed to be increased at a specified rate at regular intervals;
   v) charges stipulated as a percentage or proportion of premiums, which percentage or proportion is designed to remain unchanged over the full term of the policy; and
   vi) those portfolio charges that are deducted after the declaration of the growth rate, where, in the case of general portfolio charges deducted after the declaration of the growth rate, their percentage or proportion of the value of the portfolio is designed to remain unchanged over the full term of the policy; provided that in determining the growth rate to be applied for the purposes of this calculation, the percentage or proportion of the value of the portfolio for general portfolio charges that are deducted before the declaration of the growth rate, is designed to remain unchanged over the full term of the policy; and

b) adjusted, where the growth rate that applies to the policy does not follow the fluctuation in the value of the portfolio on a daily basis, and where that is required by the terms or actuarial basis of the policy, by a market-adjustment factor to take into account the difference between the value of the policy so calculated and the value of the portfolio;

"member", in relation to a fund member policy, means the member of the fund in respect of whom the fund had or has taken out the policy;

"nominee", in relation to a member, means a nominee of the member contemplated in the rules of the fund;

"policy" means a long-term policy, whether entered into before or after the commencement of the Act;

"portfolio" means the one or more investment funds representing the underlying assets of a policy;

"portfolio charges" means charges deducted from a portfolio, being:

a) "specific portfolio charges", namely charges for specific expenses, which expenses
include but are not limited to taxes, statutory levies, investment expenses (including investment performance fees), and investment guarantees; and

b) "general portfolio charges", namely management charges, capital charges and other stipulated general charges, which general portfolio charges are stipulated as a percentage or proportion of the value of the portfolio;

"rider-benefit" means a risk benefit for which the charge is a certain amount or a percentage of the premium or is otherwise fixed, which risk benefit excludes a basic risk benefit;

"this Part" means this Part 5A; and

"values" means all values of a policy including, but not limited to, its investment value, its remaining value and other values contemplated in section 52(2), and its maturity value.

2. Basis for determination of values and benefits of policies

1) The values and benefits of a policy, and charges in respect of the policy, are determined, over the full term of the policy, in accordance with its terms and its underlying actuarial basis, whether or not the actuarial basis has been expressly incorporated in the policy.

2) Notwithstanding anything to the contrary in the terms or actuarial basis of a policy which is not an excluded policy, and in respect of which a causal event has occurred on or after 1 January 2001, but subject to regulation 4.2:
   a) where the terms or actuarial basis of that policy make provision for the calculation of an investment value as described in the definition "investment value", regulations 5.3 to 5.6 apply to that policy; or
   b) where the terms or actuarial basis of that policy do not make provision for the calculation of an investment value as described in the definition "investment value", the values or benefits of that policy upon or immediately after the causal event must be, as certified by the insurer’s statutory actuary, materially equivalent to such values or benefits as determined in accordance with regulations 5.3 to 5.6 for a policy contemplated in paragraph (a).

3. Fund member policies

1) Where a causal event occurred in respect of a fund member policy on or after 1 January 2001, but before the effective date, and the insurer on account of that causal event deducted causal event charges which in total exceed the maximum prescribed in subregulation (2), the insurer must:
   a) if the policy has not come to an end before the effective date, within 6 months after the effective date credit the policy with the amount by which the total causal event charges deducted exceed the prescribed maximum ("the excess amount") plus interest on the excess amount calculated in accordance with regulation 5.5; or
   b) if the policy has come to an end before the effective date, and if the amount by which the total causal event charges deducted exceed the prescribed maximum ("the excess amount") is R150 or more, upon the written request of the member, or in the case of a
deceased member upon the written request of the dependants or nominees of the member, which request in every case must be received by the insurer within three years after the effective date, within 6 months after having received the written request pay the excess amount plus interest on the excess amount calculated in accordance with regulation 5.6, less any tax that must be deducted, to the member or to the dependants or nominees of a deceased member.(2) The maximum deductible charges for purposes of sub-regulation (1) are:

i) where the causal event is one contemplated in paragraph (a), (c), (f) or (9) of the definition "causal event", 35% of the investment value immediately before the causal event;

ii) where the causal event is one contemplated in paragraph (b) of the definition "causal event", a percentage of the investment value immediately before the causal event equal to 35% multiplied by the amount by which the basic premium has been reduced divided by the basic premium before it was reduced;

iii) where the causal event is one contemplated in paragraph (d) or (e) of the definition "causal event", 35% of the amount by which the investment value immediately before the causal event has been reduced.

2) Where a causal event occurs in respect of a fund member policy on or after the effective date, the insurer may not on account of that causal event deduct causal event charges which in total exceed the maximum prescribed in sub-regulation (4).

3) The maximum deductible charges for purposes of sub-regulation (3) are:

a) where the causal event is one contemplated in paragraph (a), (c), (f) or (9) of the definition "causal event", 30% of the investment value immediately before the causal event:

b) where the causal event is one contemplated in paragraph (b) of the definition "causal event", a percentage of the investment value immediately before the causal event equal to 30% multiplied by the amount by which the basic premium has been reduced divided by the basic premium before it was reduced;

c) where the causal event is one contemplated in paragraph (d) or (e) of the definition "causal event", 30% of the amount by which the investment value immediately before the causal event has been reduced.

4. Policies other than fund member policies

1)  

a) Where a causal event occurred in respect of a policy other than a fund member policy on or after 1 January 2001, but before the effective date, and the insurer on account of that causal event deducted causal event charges which in total exceed the maximum prescribed in sub-regulation (2), the insurer must, if the policy has not come to an end before the effective date, within 6 months after the effective date credit the policy with the amount by which the total causal event charges deducted exceed the prescribed maximum ("the excess amount") plus interest on the excess amount calculated in accordance with regulation 5.5.

b) Despite paragraph (a), where a policy other than a fund member policy has come to an end before the effective date, no maximum is prescribed with regard to the deduction of causal event charges on account of a causal event.
2) The maximum deductible charges for purposes of subregulation (1) are:
   a) where the causal event is one contemplated in paragraph (a) or (c) of the definition "causal event", 35% of the investment value immediately before the causal event;
   b) where the causal event is one contemplated in paragraph (b) of the definition "causal event", a percentage of the investment value immediately before the causal event equal to 35% multiplied by the amount by which the basic premium has been reduced divided by the basic premium before it was reduced;
   c) No maximum is prescribed with regard to the deduction of causal event charges on account of a causal event contemplated in paragraph (d) or (f) of the definition "causal event".

3) Where a causal event occurs in respect of a policy other than a fund member policy on or after the effective date, the insurer may not on-account of that causal event deduct causal event charges which in total exceed the maximum prescribed in sub-regulation (4).

4) The maximum deductible charges for purposes of sub-regulation (3) are:
   a) where the causal event is one contemplated in paragraph (a) or (c) of the definition "causal event", 30% of the investment value immediately before the causal event;
   b) where the causal event is one contemplated in paragraph (b) of the definition "causal event", a percentage of the investment value immediately before the causal event equal to 30% multiplied by the amount by which the basic premium has been reduced divided by the basic premium before it was reduced;
   c) where the causal event is one contemplated in paragraph (d) of the definition "causal event", 40% of the amount by which the investment value immediately before the causal event has been reduced;
   d) where the causal event is one contemplated in paragraph (f) of the definition "causal event", 40% of the investment value immediately before the causal event.

5. Interest on the excess amount

The interest on the excess amount contemplated in regulations 5.3(1)(a) and 5.4(1)(a) is:
   a) calculated from and including the date the excess amount was deducted, to but excluding the date it is credited to the policy; and
   b) at an annual interest rate equal to the growth rate (net of those portfolio charges that are deducted after the declaration of the growth rate) over this period, which annual interest rate is subject to a maximum effective rate of 10% and a minimum effective rate of 0%.

6. Interest on the excess amount (5.3(1)(b))

The interest on the excess amount contemplated in regulation 5.3(1)(b) is:
   a) calculated from and including the date the causal event occurred, to but excluding the date the excess amount is paid to the member or to the dependants or nominees of a deceased member;
   b) for the period from the date the causal event occurred, to and including the date the policy came to an end, at an annual interest rate equal to the growth rate (net of those
portfolio charges that are deducted after the declaration of the growth rate) over this period, which annual interest rate is subject to a maximum effective rate of 10% and a minimum effective rate of 0%; and

c) for the period from and excluding the date the policy came to an end, to but excluding the date the excess amount is paid, at an annual effective rate of 5%.

7. Delayed implementation

1) Upon application by an insurer to the Minister, the Minister may, after consultation with the Registrar and subject to such conditions the Minister may determine, by notice in the Gazette extend the 6 month period prescribed in sub-regulations 5.3(1)(a) and (b) and 5.4(1)(a).

2) The application contemplated in sub-regulation (1) must be lodged with the Minister within 3 months after the effective date, and must be fully motivated and accompanied by financial or other information illustrating what the immediate and potential future impact on the financial soundness or business of the insurer would be were this Part to be implemented within the 6 month period prescribed in sub-regulations 5.3(1)(a) and (b) and 5.4(1)(a).

8. Amendments to actuarial basis and values

An insurer must, within 3 months after the effective date, inform the Registrar of any amendment made from 30 June 2005 to the day before the effective date to the actuarial basis of a policy issued by that insurer before the effective date, where that amendment will have the effect of reducing the values or benefits of that policy. The insurer must also provide the reasons for the amendment.

An insurer must, before giving effect to an amendment made to the actuarial basis of a policy on or after the effective date, where that amendment will have the effect of reducing the values or benefits of that policy, inform the Registrar of the amendment. The insurer must also provide the reasons for the amendment.

The Registrar may, if he or she is of the opinion that an amendment contemplated in subregulation (1) or (2) was affected to directly or indirectly reduce the impact on the insurer of complying with this Part, direct the insurer to review that amendment.

An insurer must keep a record of amendments contemplated in sub-regulations (1) and (2), which record must be made available to the Registrar on request.

9. Disclosure

An insurer must, within 6 months after the effective date:

a) take reasonable measures to communicate the content of the relevant provisions of
this Part, and the possible implications of those provisions, to the public through mass media;
b) in respect of policies that have not come to an end before the effective date and are affected by this Part, inform every member in respect of a fund member policy, and every policyholder of a policy other than a fund member policy, in writing of the content of the relevant provisions of this Part, and of the possible implications of those provisions for those policies.

Part 5B : Investment Policies that started on or after 1 January 2009

10. Application of this Part 5B, and definitions

This Part 5B applies to investment policies that started on or after 1 January 2009, and unless defined differently in this Part 5B or unless the context indicates otherwise, any word or expression to which a meaning has been assigned in Part 5A has the meaning assigned to it in that Part, and—

'causal event charge' means a charge, other than an administration charge contemplated in regulation 5.12(3), occasioned by and pertaining to a causal event;

'charge' means a charge stipulated in a policy, which charge is deductible in respect of that policy in accordance with its terms and its actuarial basis;

'charge percentage', in relation to an investment policy, means 15% reduced on a straight-line basis to 0% over the charge term;

'charge term' means the term during which the insurer may deduct a causal event charge, which term starts on the premium commencement date and is equal to:
   a) in the case of a single premium policy the shorter of—
      i) 5 years; or
      ii) the period until the date on which the policy will reach maturity;
   b) in the case of a multiple premium policy( i) 10 years, if the premium term is 20 years or longer;
      ii) half of the premium term, if the premium term is 10 years or longer but shorter than 20 years;
      iii) 5 years, if the premium term is 5 years or longer but shorter than 10 years; or
      iv) the premium term, if the premium term is shorter than 5 years;

'excluded policy' means a policy contemplated in paragraphs (a), (b), (c) and (d) of the definition "excluded policy" in Part 5A;

'investment policy' means a single premium policy or a multiple premium policy, other than an excluded policy;

'payment date', in relation to a premium, means the date on which that premium must be paid in terms of the policy;

'premium commencement date' means the payment date of the only or first premium;
'premium term', in relation to a multiple premium policy, means the shorter of the following periods:

a) the period for which the premiums are to be paid in terms of the policy – which period, as at the start of the policy, is specified in the policy or is determinable from its written provisions; or

b) the period for which the premiums are to be paid before a policy benefit is to be provided - excluding where the policy benefit is to be provided on account of a disability event, a health event or the death of a life insured; or

c) the period for which the premiums are to be paid before a consideration must or may be paid upon the full or partial surrender of the policy - if the amount of the consideration, as at the start of the policy, is specified in the policy or is determinable from its written provisions; or

d) the longest of the following periods:
   i) 10 years; or
   ii) in the case of a fund member policy- the number of full years from the start of the policy to the 66th birthday of the life insured; or
   iii) the number of full years from the start of the policy to the 75th birthday of the life insured;

'start', in relation to a policy, means when the application for that policy is accepted by the insurer; and

'this Part' means this Part 5B.

11. Basis for determination of values and benefits of policies

1) The values and benefits of an investment policy, and charges in respect of the policy, are determined, over the full term of the policy, in accordance with its terms, which terms must be in accordance with its actuarial basis.

2) Notwithstanding anything to the contrary in the terms or actuarial basis of an investment policy, but subject to regulation 4.2, where a causal event has occurred in respect of that policy and that policy's terms or actuarial basis do not make provision for the calculation of an investment value as described in the definition "investment value" in Part SA, the values or benefits of that policy upon or immediately after the causal event must be, as certified by the insurer's statutory actuary, materially equivalent to such values or benefits as determined in accordance with regulation 5.12 for an investment policy of which the terms or actuarial basis do make provision for the calculation of an investment value as described in the definition "investment value".

12. Maximum charges that may be deducted

1) Where a causal event occurs in respect of an investment policy, the insurer may not on account of that causal event deduct causal event charges which in total exceed the maximum prescribed in sub-regulation (2).
2) The maximum deductible charges for purposes of sub-regulation (1) are:
   a) where the causal event is one contemplated in paragraph (a), (c), (f) or (g) of the definition "causal event", the charge percentage (15% or less) of the investment value immediately before the causal event;
   b) where the causal event is one contemplated in paragraph (b) of the definition "causal event", a percentage of the investment value immediately before the causal event equal to the charge percentage (15% or less) multiplied by the amount by which the basic premium has been reduced divided by the basic premium before it was reduced;
   c) where the causal event is one contemplated in paragraph (d) or (e) of the definition "causal event", the charge percentage (15% or less) of the amount by which the investment value immediately before the causal event has been reduced.

3) a) The insurer may, in addition to causal event charges, deduct in respect of any causal event, either during or after the charge term, an administration charge of not more than R300.
   b) Despite paragraph (a), the administration charge must, if necessary, be reduced proportionally so that the investment value immediately prior to the causal event, less the causal event charge and administration charge, is not smaller than 70% of the investment value immediately before the causal event.

13. Disclosure

1) An insurer must ensure that—
   a) when an investment policy is applied for, the prospective policyholder or member is within 30 days from the date of application provided in writing with the information referred to in sub-regulation (2);
   b) the summary to be provided to the policyholder or member in accordance with section 48 of the Act contains the information referred to in sub-regulation (2); and
   c) the policyholder or member is at least annually provided with the information referred to in sub-regulation (2) in writing, by telefax or any appropriate electronic communication reducible to printed form.

2) The information for purposes of sub-regulation (1) is—
   a) a summary of the content of the provisions of this Part to the extent that those provisions may be or may become applicable to the policy;
   b) an explanation of what constitutes a causal event in respect of the policy in question;
   c) a statement, expressed as a percentage and, where a Rand value amount is determinable, also as a Rand value amount, of the maximum causal event charges that may be deducted; and
   d) the administration charge that may be deducted when a causal event occurs.
Part 6. Title and Commencement

Part 6 : Title and Commencement

1) These regulations are called the Regulations under the Long-term Insurance Act, 1998.

2) Regulations 1 to 4 came into operation on commencement of the Act.
   Regulation 5 came into operation on 1 December 2006.
   Any amendment to Regulations 1 to 5 comes into operation on the date of publication thereof in the Government Gazette or on such other date specified by the Minister in the Government Gazette or specified in a regulation.
Prescribed requirements for the calculation of the value of the assets, etc.
Prescribed requirements for the calculation of the value of the assets, etc.

Prescribed requirements for the calculation of the value of the assets, liabilities and capital adequacy requirement of long-term insurers

1) I, Robert James Gourlay Barrow, Registrar of Long-term Insurance, after consulting the Actuarial Society of South Africa, hereby prescribe, under paragraph 2 of Schedule 3 of the Long-term Insurance Act, 1998 (Act No. 52 of 1998), the requirements for the calculation of the value of the assets, liabilities and capital adequacy requirement of long-term insurers, as set out in the Schedule hereto.


R J G Barrow,
Registrar of Long-Term Insurance

1. Definitions

In these Requirements, unless the context indicates otherwise:

"Act"
means the Long-term Insurance Act, 1998 (Act No. 52 of 1998), and a word or expression to which a meaning has been given in the Act, has that meaning;

"annual return"
means the statutory return an insurer must submit to the Registrar annually;

"ASSA"
means the Actuarial Society of South Africa;

"ASSA guideline"
means any guideline issued from time to time by ASSA, in consultation with the Registrar, which supplements these Requirements;

"best-estimate assumption"
means an assumption that:
   a) is realistic;
   b) depends on the nature of the business concerned;
   c) is guided by immediate past experience, as modified by any knowledge or expectation of the future;

"bonus stabilisation reserve"
Prescribed requirements for the calculation of the value of the assets, etc.

in relation to a category of participating policies, is a reliable estimate of the accumulated differences at the valuation date between the surplus attributable to policyholders and the value of bonuses already declared; the value of bonuses must be calculated on the valuation basis as described in these Requirements and needs to allow appropriately for bonuses that have not already been declared;

"capital requirement"
in relation to a regulated financial institution, means the capital or solvency margin, as the case may be, required for that institution by the regulatory authority concerned;

"cell"
represents an equity participation as shareholder in a different class of shares that is restricted to the results of the insurance business which the shareholder places in a licensed long or short-term insurer; the results of such business are determined in accordance with an agreement with the participating shareholder; the different class of shares has specified dividend rights and/or capital risk financing;

"compulsory margins"
mean the margins that must be added, in terms of paragraph 4.5;

"discretionary margins"
mean the margins that may be added, in terms of paragraph 4.8;

"GAAP"
means South African Statements of Generally Accepted Accounting Practice;

"group undertaking", in relation to an insurer, means a juristic person in which the insurer alone, or with its subsidiaries or holding company, directly holds 20% or more of the shares, if the juristic person is a company, or 20% or more of any other ownership interest, if the juristic person is not a company;

"insurer"
means a long-term insurer;

"listed"
means listed on a stock exchange or similar trading facility, which is recognised generally by the international community of institutional investors;

"materiality guidelines"
refer to acceptable margins of error and approximate valuation methods and not to the effect of different valuation assumptions;

"net asset value"
in relation to a group undertaking, means its net asset value calculated in accordance with paragraph 8;

"policy"
means a long-term policy;

"policy accumulation fund"
in relation to a policy, means the accumulated sum of:
   a) the premiums, net of risk and other charges, invested under the policy; and either
   b) the bonuses, including non-vesting bonuses, net of fund and other charges, declared
      under the policy; or
   c) the investment returns, net of fund and other charges, earned on the underlying
      assets relating to the policy;

"policyholder fund"
means a policyholder fund as defined in section 29A of the Income Tax Act, 1962 (Act No. 58 of 1962);

"regulated financial institution"
means:
   a) a financial institution as defined in paragraph (a) of the definition of 'financial
      institution' in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990);
   b) a bank as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), or a
      mutual bank as defined in section 1(1) of the Mutual Banks Act, 1993 (Act No. 124 of 1993);
   c) an entity that carries on business similar to the business of an entity referred to in
      paragraph (a) or (b), which is not regulated by a law that regulates an entity referred
      to in paragraph (a) or (b), but which is subject to substantially similar regulation
      outside South Africa;

"Schedule 3"
means Schedule 3 of the Act;

"unbundled policy"
means a policy designed with separate risk and investment components.

2. Statutory valuation method

1) The value of the assets, liabilities and capital adequacy requirement of insurers must be
calculated according to the method set out in:
   i) Schedule 3;
   ii) these Requirements, supplemented by one or more ASSA guidelines.

2) This method is referred to as the statutory valuation method.

3) It requires, among other things, that the insurer brings into account:
   i) premiums to be received in the future;
   ii) assumptions regarding future investment returns, bonus declarations, expenses,
      mortality experience, morbidity experience, lapses, surrenders, and other relevant
      factors, which assumptions:
         a) must be best-estimate assumptions;
         b) must take into account the reasonable expectations of policyholders;
         c) must be modified by compulsory margins;
         d) may be modified further by discretionary margins;
iii) a minimum level of financial resilience through the determination of a capital adequacy requirement

4) Schedule 3, these Requirements, and the ASSA guidelines apply in conjunction, but in the following order of priority: firstly Schedule 3, secondly these Requirements, and thirdly the ASSA guidelines. Therefore, if there is an overlap or conflict, Schedule 3 prevails over these Requirements and the ASSA guidelines, and these Requirements prevail over the ASSA guidelines.

3. General requirements

1) Except if these Requirements or the Act specifically direct otherwise:
   i) profit must be recognised over the lifetime of policies, to avoid losses in the future as a result of the premature recognition of profit;
   ii) assets must be valued in accordance with South African Statements of Generally Accepted Accounting Practice as applied in the annual published financial statements; and
   iii) the liabilities of an insurer, other than its contingent liabilities under long-term policies, must be determined in accordance with South African Statements of Generally Accepted Accounting Practice.

2) Where the insurer applies materiality guidelines in the valuation of its assets or liabilities, they may not be less conservative than the materiality guidelines applied by its external auditors.

4. Valuation of contingent liabilities for policy benefits that have not become claim

1) The premiums that must be valued are those still to be paid under the policy, which the insurer has not yet recognised for accounting purposes, subject to paragraph 4.2.

2) Profit may not be recognised in respect of policy options that may be exercised by policyholders. However, losses that are expected in respect of such options must be recognised. The insurer may group its business into broad categories with expected similar option exercise patterns. Only the net loss in a category, if any, has to be recognised.

3) Where shareholders may participate in the net investment returns earned on the underlying policy assets, the insurer must include in its liabilities a provision for the portion it expects to allocate to shareholders. Where the allocated portion will be available as a buffer in adverse situations, the provision must be the higher of:
   i) the expected allocation to shareholders;
   ii) the increase, in the value of the policy liability concerned, arising from the application of the compulsory margins

The basis of calculation of the provision must be disclosed in the annual return.
4) The value of the liabilities must be increased by any positive bonus stabilisation reserve. If there is a negative bonus stabilisation reserve, the value of the liabilities may be reduced by, at most, the amount that can reasonably be expected to be recovered by a distribution of lower bonuses during the ensuing three years. This may be done only if the statutory actuary is satisfied, as far as is reasonably possible in the circumstances, that the bonuses will be reduced to the extent necessary during the ensuing three years, if the fair value of the corresponding assets does not recover more than would be produced by normally assumed future investment returns.

5) The following compulsory margins must be added to the best-estimate assumptions, provided that an assumption must be increased, or decreased, depending on which alternative gives rise to an increase in the liability of the category of policies concerned:

<table>
<thead>
<tr>
<th>Item</th>
<th>Compulsory margin as a percentage of the best-estimate assumption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Morality claims</td>
<td>7.5%</td>
</tr>
<tr>
<td>Morbidity claims</td>
<td>10%</td>
</tr>
<tr>
<td>Health claims</td>
<td>15%</td>
</tr>
<tr>
<td>Lapses</td>
<td>25%</td>
</tr>
<tr>
<td>Terminations for disability</td>
<td>10%</td>
</tr>
<tr>
<td>Income Benefits in payment</td>
<td>10%</td>
</tr>
<tr>
<td>Surrenders</td>
<td>10%</td>
</tr>
<tr>
<td>Expenses</td>
<td>10%</td>
</tr>
<tr>
<td>Expense inflation</td>
<td>10% - of the estimated escalation rate</td>
</tr>
<tr>
<td>Charge against investment return</td>
<td>0.25 percentage points per year in the management fee, or an equivalent asset-based or investment performance-based margin.</td>
</tr>
</tbody>
</table>

**Note**

If the best-estimate assumption is, say, 5%, and the compulsory margin is, for example, 10%, then the assumption including the margin would be 5.5% or 4.5%, as the case may be.

6) The compulsory margins must be added throughout the lifetime of policies. The exception is for regular renewable policies where the margin should be added for a minimum period of twelve months, or up to the next renewal date, if this period is longer than twelve months. Future management actions may not be assumed to reduce the compulsory margins.

7) If retrospective reserves are calculated and shown in the annual statutory return, the value of the retrospective reserves should be at least equal to the corresponding
prospectively calculated reserves, where the prospectively calculated reserves include allowance for compulsory margins.

8) Discretionary margins may be added to the best-estimate assumptions.

9) The insurer must, in its annual return:
   i) define all explicit and implicit discretionary margins;
   ii) quantify them where they are explicit; and
   iii) give the reason why they have been added.

10) The deferred tax asset or liability, determined according to GAAP, relating to assets of a policyholder fund and which is recognised in the annual financial statements, must be taken into account in determining the value of the liabilities of the fund.

5. Reasonable expectations of policyholders

1) The reasonable expectations of policyholders will depend on the type of policy, the practice of the insurer, the manner in which benefits are quoted and presented to policyholders, and the expectations created by marketing material.

2) The reasonable expectations of policyholders must be taken into account to the extent that, in the opinion of the statutory actuary, they are likely to influence the decisions of the insurer on bonus declarations.

3) Except in the case of market-related and linked policies:
   i) the future bonus rates assumed for policies must be consistent with the discount rate used in the valuation of the corresponding liabilities, taking into account the reasonable expectations of the policyholders as determined by the statutory actuary after having considered the issues set out in this paragraph 5;
   ii) where the maintaining of the bonus rates last declared is not assumed for all future years, this must be disclosed in the annual return, with details of the reductions or increases in assumed bonus rates;
   iii) where applicable, the value of non-vesting bonuses that have accumulated must be included in the valuation - and in addition, depending on the circumstances, future additions to such bonuses may have to be assumed, for example, where the amount of a bonus depends on a scale that is related to the duration the policy has been in force.

6. Valuation of unbundled policies

1) The liabilities in respect of unbundled policies may not be less than the sum of:
   i) their underwriting liabilities;
   ii) their policy accumulation funds, including any bonus stabilisation reserve in respect of those policies.
2) The value of the underwriting liabilities must be determined according to the following formula, and by discounting the experience expected in the future in respect of the items in the formula:

\[ A + B + C - D - E, \]

where:
- **A** represents mortality and morbidity claims, including compulsory margins and, if any, discretionary margins;
- **B** represents commissions, expenses, and expense inflation, including compulsory margins and, if any, discretionary margins;
- **C** represents the cost of guarantees that have been given under the policy;
- **D** represents the provision in the premium for expenses, guarantees, risk cover and profit;
- **E** represents the future fees and charges that may be deducted in terms of the policy.

### 7. Valuation of assets

1) The value of a group undertaking must be limited to the percentage of the shareholding or other ownership interest of the insurer in the group undertaking, multiplied by the lower of the fair value or net asset value of the group undertaking.

2) If the group undertaking is listed, the value in paragraph 7.1 may be increased by:

\[ A \times B, \]

where:
- **A** equals the difference between the fair value and the net asset value of the group undertaking, provided that **A** must be taken as nil if the net asset value is more than the fair value;
- **B** is:
  a) until 31 December 2003: the lower of 60% and the percentage of the holding by the insurer in the group undertaking;
  b) from 1 January 2004 until 31 December 2004: the lower of 40% and the percentage of the holding by the insurer in the group undertaking;
  c) from 1 January 2005: the lower of 20% and the percentage of the holding by the insurer in the group undertaking.

3) If a group undertaking is not a regulated financial institution, and its fair value is less than 0.25% of the value of the liabilities of the insurer, it may be valued at fair value, notwithstanding paragraph 7.1.

4) If there is more than one group undertaking as contemplated in paragraph 7.3, each may be valued at fair value, provided that their combined fair value is not more than 2.5% of the value of the liabilities of the insurer. If their combined fair value is more than 2.5% of the value of the liabilities of the insurer, only so many of them, selected by the insurer, as will have a combined fair value of not more than 2.5% of the value of the liabilities of the insurer, may be valued at fair value. The others must then be valued as required by paragraph 7.1.
5) If an insurer holds shares, directly or indirectly through a subsidiary or a trust, in its holding company, the value of those shares must for purposes of valuation be limited to the following:
   i) if the holding company is listed - 5% of the value of the liabilities of the insurer;
   ii) if the holding company is not listed - nil.

6) Paragraph 7.5 applies also where the insurer, directly, or indirectly through a subsidiary or trust, holds shares in its holding company under a share incentive scheme linked to shares in its holding company.

7) Paragraph 7.5 does not apply where the insurer holds shares in its holding company under a collective investment scheme, an index-based investment scheme or any similar investment scheme that is recognised generally by the international community of institutional investors.

8) If an insurer has a cell in a licensed insurer, the value of those shares must for the purposes of valuation be limited to the fair value of the admissible assets held in the cell less the sum of the value of its liabilities and its capital requirement as reported by the insurer (that issued the cell) in respect of that cell.

9) If a negative asset value is reported in 7.8 and the shareholders’ agreement stated that the insurer that owns the cell is accountable for losses and/or solvency, a liability must be raised for the full negative net asset value.

8. Net asset value of a group undertaking

1) If the group undertaking is a regulated financial institution
   i) The net asset value of the group undertaking is the value of its assets, less the sum of the value of its liabilities and its capital requirement.
   ii) These values must be calculated as required by the regulatory authority concerned.
   iii) If the group undertaking is a company, and its main business is insurance business, the insurer must, in calculating these values, exclude so much of its capital and reserves as shareholders, other than the insurer, may withdraw in cash when they cease to be shareholders, in terms of the articles of association of, or a contract with, the group undertaking.

2) In other cases
   i) The net asset value of the group undertaking is the value of its assets, less the value of its liabilities.
   ii) If the group undertaking carries on most of its business in South Africa, these values must be calculated in accordance with GAAP.
   iii) If the group undertaking carries on most of its business in another country, these values must be calculated in accordance with accounting standards generally accepted in that country.
   iv) In calculating these values, the following items must be excluded, to the extent that, according to the insurer, they can be ascertained with reasonable effort and are material:
Prescribed requirements for the calculation of the value of the assets, etc.

a) an amount that remains unpaid after the expiry of a period of 12 months from the date on which they became due and payable;
b) an amount representing administrative, organisation or business extension expenses incurred directly or indirectly;
c) an amount representing goodwill or an item of a similar nature;
d) an amount representing a prepaid expense or a deferred expense;
e) an amount representing a holding in a subsidiary of the group undertaking in excess of the net asset value, calculated on the same basis as contemplated in this paragraph 8, of the subsidiary.

9. Capital adequacy requirement

1) The capital adequacy requirement for an insurer must be determined by its statutory actuary, when reporting in terms of the Act, as the highest stated in paragraphs 9.1.1, 9.1.2 and 9.1.3 below.
   i) An amount that will ensure that the liability of the insurer under each policy is not less than the amount that will become available to the policyholder on the surrender or lapse of that policy, making due allowance for the reasonable expectations of the policyholder.
   ii) The amount determined in accordance with ASSA guidelines for calculating the capital adequacy requirement.
   iii) The minimum capital adequacy requirement, which is to be the higher of:
       a) R10 million;
       b) an amount representing operating expenses, as defined and reported in the annual return last submitted to the Registrar, multiplied by 13 and divided by 52 or, if different, the number of weeks included in the reporting period.

2) The Registrar may permit the capital adequacy requirement (calculated as prescribed in paragraphs 9.1.1 and 9.1.2) to be adjusted by the use of a company-specific internal model as agreed between the insurer and the Registrar, taking account of any requirements that the Registrar may specify.

3) In determining the capital adequacy requirement in accordance with paragraphs 9.1.1, 9.1.2 and 9.2, credit for offsetting factors may be taken into account only where:
   i) the board of directors of the insurer has approved the relevant management action;
   ii) the statutory actuary is satisfied, as far as is reasonably possible under the circumstances, that the management action will be taken.

4) In determining the capital adequacy requirement in accordance with paragraphs 9.1.1, 9.1.2 and 9.2, the capital adequacy requirement of a branch of the insurer must be added to the capital adequacy requirement of the insurer. The capital adequacy of each branch must be the higher of:
   i) the capital adequacy requirement of the branch, calculated in accordance with these Requirements; this requirement is calculated by taking the difference between the capital adequacy requirement when adding the specific branch’s assets and liabilities to those of the South African operation and the capital adequacy requirement of the South African operation on its own;
ii) such capital requirement as may be prescribed by the regulatory authority in the
country in which the branch carries on most of its insurance business.

5) The total capital adequacy requirement as set out in these Requirements is the minimum
amount that must be available. Where the statutory actuary perceives that this minimum
is inadequate for a particular long-term insurer, the insurer must set aside such higher
amount as the statutory actuary regards as prudent.

10. The Registrar may relax provisions

1) The Registrar may relax a provision in these Requirements, for such duration and on such
conditions as the Registrar may determine.

2) An insurer must apply for such relaxation in writing, in the form and with the supporting
information, documents and explanation the Registrar may require.

11. Short title

This Notice is called the Notice on the Prescribed Requirements for the Calculation of the Value
Prescribed Long-Term Insurance Fees

www.acts.co.za

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Prescribed Long-Term Insurance Fees

Notice on Prescribed Long Term Insurance Fees, 2004

Boar Notice 90 of 2004

Financial Services Board


Registrar of Long-term Insurance

Definitions

1) In this Schedule, unless the context otherwise indicates,

"Act"
means the Long-term Insurance Act, 1998 (Act No. 52 ),

"regulations"
means the Regulations made under the Act,

"section"
means a section of the Act,

"schedule"
means a Schedule of the Act,

and any word or expression to which a meaning has been assigned in the Act has the meaning so assigned to it.

2) The fees in the Table apply in respect of each section or schedule in the Act and item indicated opposite thereto.

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<td>42-00</td>
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<td></td>
<td>Section</td>
<td>Description</td>
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<tr>
<td>b)</td>
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<td>i)</td>
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<td>Section 9(1)</td>
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<td>l)</td>
<td>Section 9(2)(b)</td>
<td>Registration as a long-term insurer, excluding the registration of an existing insurer referred to in section 69(3)</td>
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<td>m)</td>
<td>Section 11(1)(a)</td>
<td>Application for variation of conditions of registration, excluding those variations referred to in sections 12 and 13</td>
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<tr>
<td>n)</td>
<td>Section 17</td>
<td>Application for approval of a change</td>
</tr>
<tr>
<td>Letter</td>
<td>Section</td>
<td>Description</td>
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<td>o</td>
<td>19(2)</td>
<td>Application for any one approval of an auditor</td>
</tr>
<tr>
<td>p</td>
<td>20(4)</td>
<td>Application for approval of any one of the statutory actuary and alternate statutory actuary</td>
</tr>
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<td>q</td>
<td>23(4)</td>
<td>Application for exemption from appointing an audit committee</td>
</tr>
<tr>
<td>r</td>
<td>Any one of section 24(a)(i), (ii), (iii), (iv), (v), (vi), (vii) and (viii)</td>
<td>3 159-00</td>
</tr>
<tr>
<td>s</td>
<td>24(a)(ix)</td>
<td>Application for approval to allow a subsidiary of a long-term insurer to acquire directly or indirectly shares in that long-term insurer</td>
</tr>
<tr>
<td>t</td>
<td>25(1)</td>
<td>Application for approval to allot or issue any of the shares of a long-term insurer to, or register any of the shares of a long-term insurer in .the name of, a person other than the intended beneficial shareholder, or to register transfer of any of the shares of a long-term insurer to a person other than the intended beneficial shareholder</td>
</tr>
<tr>
<td>u</td>
<td>26</td>
<td>Application for approval to acquire or hold shares or any other interest in a long-term insurer</td>
</tr>
<tr>
<td>v</td>
<td>3(l)(c)</td>
<td>Application for approval of an increase of a percentage specified by regulation</td>
</tr>
<tr>
<td>w</td>
<td>32(1)(b)</td>
<td>Application to hold documentary evidence or title to an asset outside the Republic</td>
</tr>
<tr>
<td>x</td>
<td>32(2)</td>
<td>Application for prior approval to include in the assets which a long-term insurer holds in respect of any of its policyholder funds shares in its holding company</td>
</tr>
<tr>
<td>y</td>
<td>Any on of the section 34(1)(a), (c), (d) and (e)</td>
<td>3 413-00</td>
</tr>
<tr>
<td>z</td>
<td>34(1)(b)</td>
<td>Application for approval of a person to hold assets on behalf of a long-term insurer</td>
</tr>
<tr>
<td>aa</td>
<td>37(2)</td>
<td>Application for approval of an arrangement for the transfer of</td>
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<tr>
<td></td>
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<td>long-term insurance business</td>
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<tr>
<td>bb</td>
<td>Section 38</td>
<td>Application for approval of compromise, arrangement, amalgamation, demutualisation or transfer of business</td>
</tr>
<tr>
<td>cc</td>
<td>Section 43(a)</td>
<td>Application for a declaration in connection with the voluntary winding-up of a long-term insurer</td>
</tr>
<tr>
<td>dd</td>
<td>Paragraph 2(b)(i) of schedule 1</td>
<td>Application for approval of the relevant criteria for a counterparty to an over-the-counter instrument</td>
</tr>
<tr>
<td>ee</td>
<td>Paragraph 2(b)(iii) of schedule 1</td>
<td>Application for approval of any other financial market in the Republic on which any other derivative instrument is traded</td>
</tr>
<tr>
<td>ff</td>
<td>Item 20(c) of the Table to schedule 1</td>
<td>Application for approval of a body corporate which is not incorporated and registered in the Republic</td>
</tr>
<tr>
<td>gg</td>
<td>Paragraph 1 of schedule 3</td>
<td>Application for approval of another insurer in terms of the definition of &quot;approved reinsurance policy&quot;</td>
</tr>
<tr>
<td>hh</td>
<td>Paragraph 10 of the Notice on the Prescribed Requirements for the Calculation of the Value of Assets, Liabilities and Capital Adequacy Requirement of Long-term Insurers, 2004, which Notice has been prescribed in terms of paragraph 2 of schedule 3</td>
<td>Application for relaxation of a provision</td>
</tr>
<tr>
<td>ii</td>
<td>Paragraph 7(2) of schedule 3</td>
<td>Application for approval for the valuation of any liability in respect of a creditor who has waived any right to have the obligation discharged until all obligations to other creditors have been discharged in full</td>
</tr>
</tbody>
</table>
| jj |   | Application for the special performance by the Registrar of any other act, authorised by the Act, than an act contemplated in any other subparagraph above | A fee determined by the Registrar in every individual case after consultation with the applicant, being a minimum of 500-00 and a
Payment of fees

3) The payment of a fee referred to in this Schedule by a person to the Financial Services Board may be in cash or by means of a cheque or a money transfer (in which case proof of the transfer must be provided).

4) The fees referred to in this Schedule are inclusive of Value-Added Tax.

Short title

5) This Notice is called the Notice on Prescribed Long-term Insurance Fees, 2004.

Notice on Prescribed Long Term Insurance Fees, 2005

Board Notice 90 of 2004

Financial Services Board

Notice 90 of 2004, published in the Gazette on 27 August 2004, is hereby withdrawn.

RJG Barrow
Registrar of Long-term Insurance

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<td>Application for the determination that a policy or policies shall form part of a different class of policies</td>
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<td>A copy of the Annual Report of the Registrar of Long-term Insurance, in printed or electronic format</td>
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<td>16,068.00</td>
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<td>11,455.00</td>
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<td>m) Section 11(1)(a)</td>
<td>Application for variation of conditions of registration, excluding those variations referred to in sections 12 and 13</td>
<td>7,243.00</td>
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<td>n) Section 17</td>
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<td>772.00</td>
</tr>
<tr>
<td>o) Section 19(2)</td>
<td>Application for any one approval of an auditor</td>
<td>1,571.00</td>
</tr>
<tr>
<td>p) Section 20(4)</td>
<td>Application for approval of any one of the statutory actuary and alternate statutory actuary</td>
<td>1,878.00</td>
</tr>
<tr>
<td>q) Section 23(4)</td>
<td>Application for exemption from appointing an audit committee</td>
<td>1,218.00</td>
</tr>
<tr>
<td>r) Any one of section 24(a)(i), (ii), (iii), (iv), (v), (vi), (vii) and (viii)</td>
<td>Application for approval</td>
<td>2,771.00</td>
</tr>
<tr>
<td>s) Section 24(a)(ix)</td>
<td>Application for approval to allow a subsidiary of a long-term insurer to acquire directly or indirectly shares in that long-term insurer</td>
<td>2,994.00</td>
</tr>
<tr>
<td>t) Section 25(1)</td>
<td>Application for approval to allot or issue any of the shares of a long-term insurer to, or register any of the shares of a long-term insurer in the name of, a person other than the intended beneficial shareholder, or to register transfer of any of the shares of a long-term insurer</td>
<td>1,218.00</td>
</tr>
<tr>
<td>SECTION OR SCHEDULE IN THE ACT</td>
<td>ITEM</td>
<td>FEES Rand</td>
</tr>
<tr>
<td>-------------------------------</td>
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<tr>
<td></td>
<td>insurer to a person other he intended beneficial shareholder</td>
<td></td>
</tr>
<tr>
<td>u)</td>
<td>Section 26 Application for approval to acquire or hold shares or any other interest in a long-term insurer</td>
<td>2,799.00</td>
</tr>
<tr>
<td>v)</td>
<td>Section 3(l)(c) Application for approval of an increase of a percentage specified by regulation</td>
<td>1,720.00</td>
</tr>
<tr>
<td>w)</td>
<td>Section 32(1)(b) Application to hold documentary evidence or title to an asset outside the Republic</td>
<td>883.00</td>
</tr>
<tr>
<td>x)</td>
<td>Section 32(2) Application for prior approval to include in the assets which a long-term insurer holds in respect of any of its policyholder funds shares in its holding company</td>
<td>2,994.00</td>
</tr>
<tr>
<td>y)</td>
<td>Any on of the section 34(1)(a), (c), (d) and (e) Application for approval</td>
<td>2,994.00</td>
</tr>
<tr>
<td>z)</td>
<td>Section 34(1)(b) Application for approval of a person to hold assets on behalf of a long-term insurer</td>
<td>5,235.00</td>
</tr>
<tr>
<td>aa)</td>
<td>Section 37(2) Application for approval of an arrangement for the transfer of long-term insurance business</td>
<td>3,198.00</td>
</tr>
<tr>
<td>ab)</td>
<td>Section 38 Application for approval of compromise, arrangement, amalgamation, demutualisation or transfer of business</td>
<td>21,246.00</td>
</tr>
<tr>
<td>ac)</td>
<td>Section 43(a) Application for a declaration in connection with the voluntary winding-up of a long-term insurer</td>
<td>10,163.00</td>
</tr>
<tr>
<td>ad)</td>
<td>Paragraph 2(b)(i) of schedule 1 Application for approval of the relevant criteria for a counterparty to an over-the-counter instrument</td>
<td>2,427.00</td>
</tr>
<tr>
<td>ae)</td>
<td>Paragraph 2(b)(iii) of schedule 1 Application for approval of any other financial market in the Republic on which any other derivative instrument is traded</td>
<td>2,427.00</td>
</tr>
<tr>
<td>af)</td>
<td>Item 20(c) of the Table of schedule 1 Application for approval of a body corporate which is not incorporated and registered in the Republic</td>
<td>2,427.00</td>
</tr>
<tr>
<td>SECTION OR SCHEDULE IN THE ACT</td>
<td>ITEM</td>
<td>FEES Rand</td>
</tr>
<tr>
<td>--------------------------------</td>
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</tr>
<tr>
<td>ag) Paragraph 1 of schedule 3</td>
<td>Application for approval of another insurer in terms of the definition of &quot;approved reinsurance policy&quot;</td>
<td>2,418.00</td>
</tr>
<tr>
<td>ah) Paragraph 10 of the Notice on the Prescribed Requirements for the Calculation of the Value of Assets, Liabilities and Capital Adequacy Requirement of Long-term Insurers, 2005, which Notice has been prescribed in terms of paragraph 2 of schedule 3</td>
<td>Application for relaxation of a provision</td>
<td>5,235.00</td>
</tr>
<tr>
<td>ai) Paragraph 7(2) of schedule 3</td>
<td>Application for approval for the valuation of any liability i.r.o. a creditor who has waived any right to have the obligation discharged until all obligations to other creditors have been discharged in full</td>
<td>2,427.00</td>
</tr>
<tr>
<td>aj)</td>
<td>Application for the special performance by the Registrar of any other act, authorised by the Act, than an act contemplated in any other subparagraph above</td>
<td>A fee determined by the Registrar in every individual case after consultation with the applicant, being a minimum of 500.00 and a maximum of 25,000.00</td>
</tr>
</tbody>
</table>

Payment of fees
3) The payment of a fee referred to in this Schedule by a person to the Financial Services Board may be in cash or by means of a cheque or a money transfer (in which case proof of the transfer must be provided).

4) Fees imposed in the past, on financial institutions by the Financial Services Board were all inclusive of Value-added tax (VAT). By virtue of certain national legislative changes of the Financial Services Board became no-longer liable to register for VAT, reaching thereby the same legal status as other public authorities such as State Departments. As a result fees payable to the Financial Services board need no longer include any VAT amount.

Short title

5) This Notice is called the Notice on Prescribed Long-term Insurance Fees, 2005.

Notice on Prescribed Long-Term Insurance Fees, 2010

Board Notice 53 of 2010

Financial Services Board


Notice 102 of 2005, published in the Gazette on 21 October 2005 will be repealed with effect from 1 May 2010.

This Notice will come into operation on 1 May 2010.

DP Tshidi,
Registrar of Long-term Insurance

Definitions

1) In this Schedule, unless the context otherwise indicates:

"Act"
means the Long-term Insurance Act, 1998 (Act No. 52 of 1998),

"regulations"
means the Regulations made under the Act,

"section"
means a section of the Act,

"schedule"
means a Schedule of the Act,

and any word or expression to which a meaning has been assigned in the Act has the meaning so assigned to it.

2) The fees in the Table apply in respect of each section or schedule in the Act and item indicated opposite thereto.

<table>
<thead>
<tr>
<th>SECTION OR SCHEDULE IN, OR REGULATION UNDER, THE ACT</th>
<th>ITEM</th>
<th>FEES</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Section 3(4)</td>
<td>Document search by the Registrar for purposes of inspection thereof, or furnishing of copies or for the search, per insurer, for documents in respect of a particular financial year, relating to the last ten preceding financial years, for the purposes of inspection thereof or furnishing of copies</td>
<td>48.00</td>
</tr>
<tr>
<td>b) Section 3(4)</td>
<td>Furnishing of a photostatic copy of a return contemplated in section 36, excluding those returns to be submitted in terms of the Companies Act, 1973</td>
<td>255.00</td>
</tr>
<tr>
<td>c) Section 3(4)</td>
<td>Furnishing of a return contemplated in section 36, in electronic format, for a particular financial year, excluding those returns to be submitted in terms of the Companies Act, 1973</td>
<td>194.00</td>
</tr>
<tr>
<td>d) Section 3(4)</td>
<td>Furnishing of a copy of, or extract from, any document per sheet thereof</td>
<td>4.00</td>
</tr>
<tr>
<td>e) Section 3(5)</td>
<td>Certification of a document</td>
<td>229.00</td>
</tr>
<tr>
<td>f) Section 4(1)</td>
<td>Application for extension of time</td>
<td>859.00</td>
</tr>
<tr>
<td>g) Section 47(7)(b)</td>
<td>Application for the determination that a policy or policies shall form part of a different class of policies</td>
<td>6,141.00</td>
</tr>
<tr>
<td>h) Section 5</td>
<td>A copy of the Annual Report of the Registrar of Long-term Insurance, in printed or electronic format</td>
<td>108.00</td>
</tr>
<tr>
<td>i) Section 8(1)(a)</td>
<td>Application for approval of the use of the words &quot;insure&quot;, &quot;assure&quot;, &quot;underwrite&quot; or any derivative</td>
<td>229.00</td>
</tr>
<tr>
<td>SECTION OR SCHEDULE IN, OR REGULATION UNDER, THE ACT</td>
<td>ITEM</td>
<td>FEES</td>
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<td></td>
<td>thereof in the name or description of a business or an undertaking</td>
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</tr>
<tr>
<td>j) Section 8(2)</td>
<td>Application for approval of a change of name, or a translation, shortened form or derivative thereof, of a long-term insurer</td>
<td>1,075.00</td>
</tr>
<tr>
<td>k) Section 9(1)</td>
<td>Application for registration as a long-term insurer, excluding an application which is referred to in section 69(2)</td>
<td>20,888.00</td>
</tr>
<tr>
<td>l) Section 9(2)(b)</td>
<td>Registration as a long-term insurer, excluding the registration of an existing insurer referred to in section 69(3)</td>
<td>14,892.00</td>
</tr>
<tr>
<td>m) Section 11(1)(a)</td>
<td>Application for variation of conditions of registration, excluding those variations referred to in sections 12 and 13</td>
<td>9,416.00</td>
</tr>
<tr>
<td>n) Section 17</td>
<td>Application for approval of a change in the financial year of a long-term insurer</td>
<td>1,004.00</td>
</tr>
<tr>
<td>o) Section 19(2)</td>
<td>Application for any one approval of an auditor</td>
<td>2,042.00</td>
</tr>
<tr>
<td>p) Section 20(4)</td>
<td>Application for approval of any one of the statutory actuary and alternate statutory actuary</td>
<td>2,441.00</td>
</tr>
<tr>
<td>q) Section 23(4)</td>
<td>Application for approval concerning the appointment or composition of an audit committee</td>
<td>1,583.00</td>
</tr>
<tr>
<td>r) Any one of section 24(a)(i), (ii), (iii), (iv), (v), (vi), (vii) and (viii)</td>
<td>Application for approval</td>
<td>3,602.00</td>
</tr>
<tr>
<td>s) Section 24(a)(ix)</td>
<td>Application for approval to allow a subsidiary of a long-term insurer to directly or indirectly shares in that long-term insurer</td>
<td>3,892.00</td>
</tr>
<tr>
<td>t) Section 25(1)</td>
<td>Application for approval to allot or issue any of the shares of a long-term insurer to, or register any of the shares of a long-term insurer in the name of, a person other than</td>
<td>1,583.00</td>
</tr>
<tr>
<td>SECTION OR SCHEDULE IN, OR REGULATION UNDER, THE ACT</td>
<td>ITEM</td>
<td>FEES</td>
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<td></td>
<td>the intended beneficial shareholder, or to register transfer of any of the shares of a long-term insurer to a person other than the intended beneficial shareholder</td>
<td></td>
</tr>
<tr>
<td>u) Section 26</td>
<td>Application for approval to acquire or hold shares or any other interest in a long-term insurer</td>
<td>3,639.00</td>
</tr>
<tr>
<td>v) Section 31(1)(c)</td>
<td>Application for approval of an increase of a percentage specified by regulation</td>
<td>2,236.00</td>
</tr>
<tr>
<td>w) Section 32(1)(b)</td>
<td>Application to hold documentary evidence or title to an asset outside the Republic</td>
<td>1,148.00</td>
</tr>
<tr>
<td>x) Section 32(2)</td>
<td>Application for prior approval to include in the assets which a long-term insurer holds in respect of any of its policyholder funds shares in its holding company</td>
<td>3,892.00</td>
</tr>
<tr>
<td>y) Any one of the section 34(1)(a), (c), (d) and (e)</td>
<td>Application for approval</td>
<td>3,892.00</td>
</tr>
<tr>
<td>z) Section 34(1)(b)</td>
<td>Application for approval of a person to hold assets on behalf of a long-term insurer</td>
<td>6,806.00</td>
</tr>
<tr>
<td>aa) Section 37(2)</td>
<td>Application for approval of an arrangement for the transfer of long-term insurance business</td>
<td>4,157.00</td>
</tr>
<tr>
<td>ab) Section 38</td>
<td>Application for approval of compromise, arrangement, amalgamation, demutualisation or transfer of business</td>
<td>27,620.00</td>
</tr>
<tr>
<td>ac) Section 43(a)</td>
<td>Application for a declaration in connection with the voluntary winding-up of a long-term insurer</td>
<td>13,212.00</td>
</tr>
<tr>
<td>ad) Paragraph 2(b)(i) of schedule 1</td>
<td>Application for approval of the relevant criteria for a counterparty to an over-the-counter instrument</td>
<td>3,214.00</td>
</tr>
<tr>
<td>ae) Paragraph 2(b)(iii) of schedule 1</td>
<td>Application for approval of any other financial market in the Republic on which any other derivative instrument is traded</td>
<td>3,214.00</td>
</tr>
<tr>
<td>SECTION OR SCHEDULE IN, OR REGULATION UNDER, THE ACT</td>
<td>ITEM</td>
<td>FEES</td>
</tr>
<tr>
<td>-----------------------------------------------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>af) Item 20(c) of the Table of schedule 1</td>
<td>Application for approval of a body corporate which is not incorporated and registered in the Republic</td>
<td>3,214.00</td>
</tr>
<tr>
<td>ag) Paragraph 1 of schedule 3</td>
<td>Application for approval of another insurer in terms of the definition of &quot;approved reinsurance policy&quot;</td>
<td>3,143.00</td>
</tr>
<tr>
<td>ah) Paragraph 10 of the Notice on the Prescribed Requirements for the calculation of the value of assets, liabilities and capital adequacy requirement of long-term insurers, 2010, which Notice has been prescribed in terms of paragraph 2 of schedule 3</td>
<td>Application for relaxation of a provision</td>
<td>6,806.00</td>
</tr>
<tr>
<td>ai) Paragraph 7(2) of schedule 3</td>
<td>Application for approval for the valuation of any liability i.r.o. a creditor who has waived any right to have the obligation discharged until all obligations to other creditors have been discharged in full</td>
<td>3,214</td>
</tr>
<tr>
<td>aj)</td>
<td>Application for the special performance by the Registrar of any other act, authorised by the Act, than an act contemplated in any other subparagraph above</td>
<td>A fee determined by the Registrar in every individual case after consultation with the applicant, being a minimum of 500.00 and a maximum of 25,000.00</td>
</tr>
</tbody>
</table>
Prescribed Long-Term Insurance Fees

Payment of fees

3) The payment of a fee referred to in this Schedule by a person to the Financial Services Board may be in cash or by means of a cheque or a money transfer (in which case proof of the transfer must be provided).

4) The Financial Services Board is listed in Part A - National Public Entities - of Schedule 3 – Other Public Entities - in the Public Finance Management Act, 1999. Public entities generally are not liable to register for value added tax (VAT). The Financial Services Board is not registered as a VAT vendor under the Value-Added Tax Act, 1991. The amounts in this schedule therefore do not include VAT.
Notices

Board Notice 75 of 2006 : Appointment of Members of The Long-Term Insurance Advisory Commit

Board Notice 75 of 2006

Financial Services Board

The Minister of Finance has, in terms of Section 6 of the Insurance Act 1998, appointed the following persons to be members of the Advisory Committee on the Long-term Insurance from 01 August 2005 until 31 July 2008. This excludes the Chairperson whose term of appointment is 01 August 2005 until 30 June 2007.

Mr Robert Barrow (Chairperson)
Mr Mashudu Munyai
Ms Mamoroke Lehobye
Mr Terrence Chauke
Mr Gerhardt Joubert
Ms Boitumelo Ngutshane
Mr Jayduth Ramsunder
Mr Phillip Strachan
Mr Desmond Smith
Ms Yvonne Thembekazi
Ms Mary Vilakazi

Ms Hermina Monama of the Financial Services Board will act as a Secretary

Board Notice 95 of 2007 : Documents which a person may Inspect

Board Notice 95 of 2007

Financial Services Board

I, Robert James Gourlay Barrow, Registrar of Long-term Insurance, after consulting the Advisory Committee on Long-term Insurance, hereby notify that a person may inspect the following documents held by the Registrar of Long-term Insurance under the Act in relation to a long-term insurer or obtain a copy of or extract from any such document:

1) A certificate of registration issued to a long-term insurer in terms of section 9(2)(b) or 11(2) of the Act;
2) Any approval granted in terms of section 26(1) and 26(2) of the Act for the holding of shares in a long-term insurer;
3) The names of long-term insurers registered in terms of section 9(2) of the Act and any changes to those names, or translations, shortened forms or derivatives thereof approved
4) The addresses of the head offices of long-term insurers and the names of their public officers as contemplated in section 16(1) of the Act;
5) The names of the auditor and statutory actuary or his or her alternate, respectively, appointed by a long-term insurer as contemplated in sections 19 and 20 of the Act;
6) Each completed statement identified as being available to the public in the annual returns submitted by long-term insurers in terms of section 36 of the Act, including any duly audited account or balance sheet or any other statement or report relating to its finances which it is in terms of the Companies Act, 1973 (Act No. 61 of 1973) or any other law under which it is incorporated, required to submit to an annual general meeting of shareholders or policyholders, whether or not such insurer has complied with the requirements of the said Act or such other law.

The above-mentioned documents will only be made available upon payment of the fees prescribed in terms of section 3(2)(b)(i) of the Act.


Board Notice 101 of 2007: Prescribing of Transnet Pension Funds

Board Notice 101 of 2007

Financial Services Board


Board Notice 81 of 2008: Returns by Long-term Insurers to Registrar

Board Notice 81 of 2008

Financial Services Board

I, Dube Phineas Tshidi, Registrar of Long-term Insurance, hereby notify, in terms of section 36 of the Long-term Insurance Act, 1998, that every long-term insurer shall furnish the Registrar,—

a) within a period of four months after the expiration of each financial year with an audited return relating to its business;

b) within a period of one month after the expiration of each quarter of its financial year with a return relating to its business; and

c) within a period of six months of the expiration of each financial year, with a copy of its financial statements as defined in section 1(1) of the Companies Act, 1973 (Act No. 61 of 1973).

This Board Notice is applicable to all registered long-term insurers with financial years ending on
or after 1 January 2008 and relates to the financial year under review in its entirety.

The returns must be submitted on A4 paper and also electronically.

The returns referred to in paragraphs (a) and (b) above must contain the following information and be submitted in the following form:

1) Annual Statutory Return (Refer Annexure A)
2) Quarterly Return (Refer Annexure B)


D P Tshidi
Registrar of Long-term Insurance

* Annexures A and B can be found in Government Gazette No. 31207 dated 5 September 2008.

Amendment of Board Notice 81 of 2008: Returns to Registrar

Notice No. 387
7 April 2009

Financial Services Board


   a) substituting Statements C2, C4, C5, C6 and C9, Statements E5 and E11 and Statements G3, G5, G14, G15.1 to G15.4 of the Annual Statutory Return for the Statements set out in Annexure A of the Schedule;
   b) repealing Statements G15.5 and G15.6 of the Annual Statutory Return; and
   c) substituting the Quarterly Return for the Quarterly Return set out in Annexure B of the Schedule.

This Notice takes effect on the date of publication thereof and applies to every registered long-term insurer whose financial year ends on or after 1 January 2009, and applies in respect of the full financial year preceding the end of the financial year referred to above.

DP TSHIDI
Registrar of Long-Term Insurance
Amendment of Board Notice 81 of 2008 and Notice 387 of 2009: Returns to Registrar

Notice No. 294
16 April 2010

Financial Services Board


a) substituting Statement C6, Statement E11, Statement E11.1 and Statement G3 of the Annual Statutory Return for the Statements set out in Annexure A of the Schedule hereto; and

b) substituting the Quarterly Return for the Quarterly Return set out in Annexure B of the Schedule hereto.

This Notice takes effect on the date of publication thereof and applies to every registered long-term insurer whose financial year ends on or after 1 January 2010, and applies in respect of the full financial year preceding the end of the financial year referred to above.

D P Tshidi
Registrar of Long-Term Insurance

The Forms in the Schedule hereto can be found in Government Gazette No. 33133 dated 16 April 2010.

Board Notice 188 of 2011: Pre-application assessment fees
Internal Model Application Process: Pre-application assessment fees

Board Notice No. 188 of 2011

Financial Services Board

I, Dube Phineas Tshidi, Registrar of Long-term Insurance and Short-term Insurance, hereby prescribe the fees for the pre-application assessment of internal models as set out in the
Schedule.

This Notice comes into operation on 25 November 2011.

DP Tshidi, 
Registrar of Long-Term Insurance and Short-Term Insurance

1. Definitions

In this Schedule any word or expression to which a meaning has been assigned in the Long-term Insurance Act, 1998 or the Short-term Insurance Act, 1998, respectively, has the meaning so assigned to it, unless the context otherwise indicates, and —

"extended review" means a more detailed review of an element of the full or partial internal model of an insurer subsequent to a standard review, if the Registrar determines that such a review is necessary taking into account amongst others, the materiality or complexity of a risk or risks, or the potential risk from the use of an inappropriate internal model;

"intensive review" means an in depth and comprehensive review of an element of the full or partial internal model of an insurer subsequent to an standard review, if the Registrar determines that such a review is necessary taking into account amongst others, the materiality or complexity of a risk or risks, or the potential risk from the use of an inappropriate internal model;

"pre-application assessment" means the standard, and where required, the extended or intensive review of the full or partial internal model of an insurer to determine if that insurer qualifies for submitting an application for the use of a full or partial internal model for the calculation of the solvency capital requirement; and

"standard review" means a review of all the elements of the full or partial internal model of an insurer, which review constitutes a basic, typical or complex review as determined by the Registrar taking into account, amongst others, the size of the insurer, the risks and legal entities addressed by the internal model, the classes of insurance business conducted by the insurer and the type of internal model.

2. Fees

2.1) The following fees are payable in respect of a pre-application assessment:

<table>
<thead>
<tr>
<th>ITEM</th>
<th>FEE (RAND)</th>
</tr>
</thead>
</table>


<table>
<thead>
<tr>
<th>REVIEW TYPE</th>
<th>FEES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>STANDARD</strong></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>800,000</td>
</tr>
<tr>
<td>Typical</td>
<td>1,400,000</td>
</tr>
<tr>
<td>Complex</td>
<td>2,600,000</td>
</tr>
<tr>
<td><strong>EXTENDED</strong></td>
<td>Between R400 000 and R1 400 000</td>
</tr>
<tr>
<td><strong>INTENSIVE</strong></td>
<td>Between R700 000 and R2 200 000</td>
</tr>
</tbody>
</table>

2.2) The standard review fee is payable by an insurer that participates in the pre-application assessment.

2.3) The extended review or intensive review fee is payable by an insurer in addition to the standard review fee and in respect of each element of the full or partial model of the insurer that is subjected to an extended review or intensive review.

2.4) The exact fee payable in respect of an extended review or intensive review will be determined by the Registrar taking into account the complexity of the element to be reviewed.

3. **Payment of fees**

3.1) The standard review fee is payable in two equal installments. The first installment is due on 10 June or 28 October, whichever date is the first date following the date on which the Registrar notified the insurer that the undertaking qualifies to take part in the pre-application assessment. The second installment is due six months later.

3.2) The extended review fee or intensive review fee is payable within 60 days of the date on which the Registrar notified the insurer that such a review is necessary.

3.3) The fees are payable to the Financial Services Board and payment may be by means of a cheque or a money transfer (in which case proof of the transfer must be provided).

3.4) The Financial Services Board, a public entity listed in Schedule 3A of the Public Finance Management Act No. 1 of 1999, is not liable for value added tax and is not registered as a VAT vendor under the Value-Added Tax Act No. 89 of 1991. The amounts in this schedule therefore do not include VAT.
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