



Proposed Amendments to Regulations

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Long- and Short- term Insurance Acts, 1998

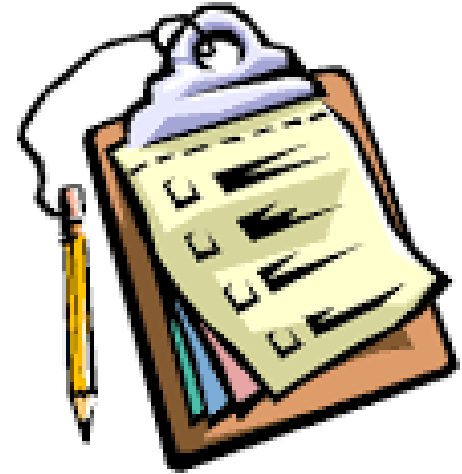
Industry Workshop

21 July 2017

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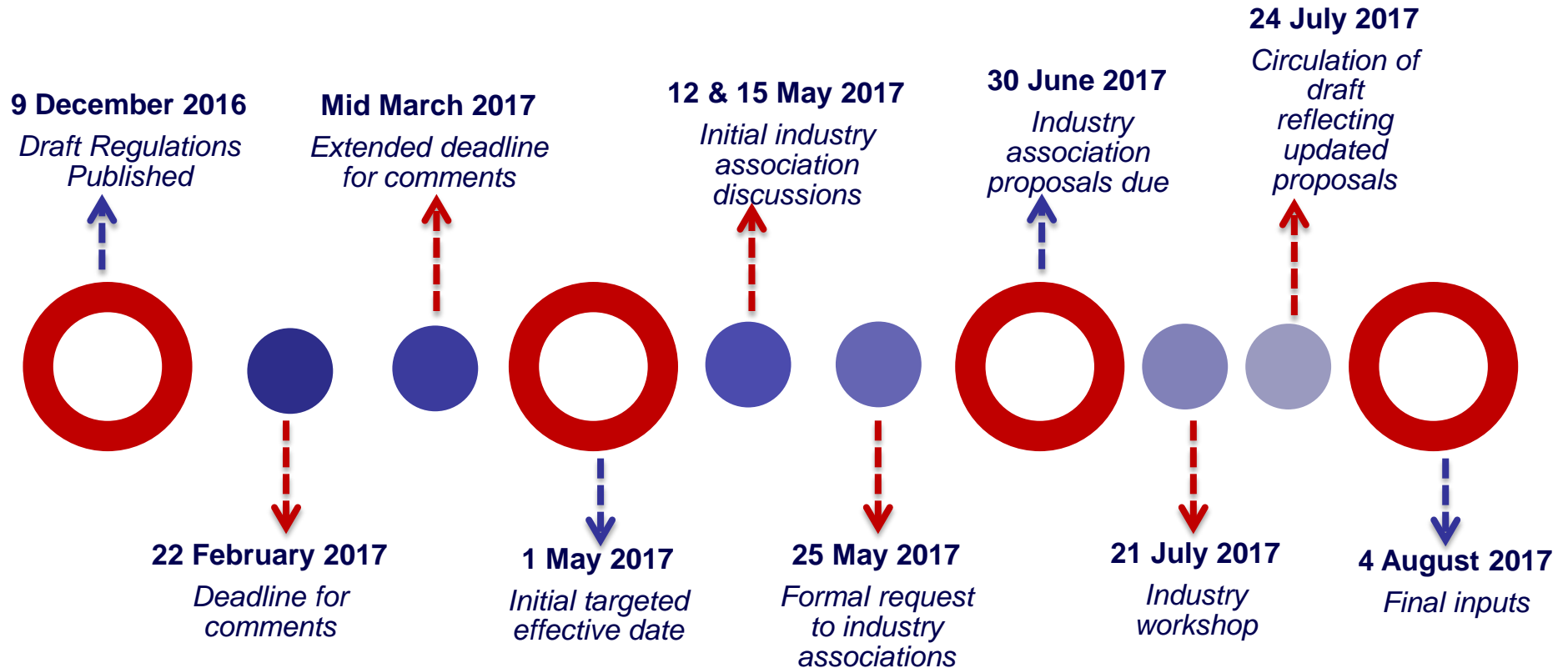
AGENDA

- 1. OVERVIEW OF PROCESS**
- 2. REQUEST TO INDUSTRY ASSOCIATIONS**
- 3. KEY THEMES**
- 4. CURRENT THINKING ON PROPOSED AMENDMENTS PER THEME**
- 5. OTHER GENERAL PROPOSED AMENDMENTS**



OVERVIEW OF PROCESS

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CONSULTATION PROCESS

- 40 commentators – substantial feedback received – common themes emerged
- Most prominent theme – binder fee caps for NMI's who provide advice
- Extensive internal deliberation on feedback received
- Targeted effective date deferred – opportunity for further industry engagement

OBJECTIVES OF TODAY

- Feedback to commentators on current thinking on material changes in response to comments received
- Opportunity for further input to properly inform the FSB's recommendations to NT prior to tabling in Parliament

TARGETED EFFECTIVE DATE

- 1 January 2018 onwards



REQUEST TO INDUSTRY ASSOCIATIONS



INDUSTRY ASSOCIATION ENGAGEMENT – FEE CAPS

- Discussions with SAIA, ASISA, FIA and SAUMA - May 2017
- Emphasis of concerns – inconsistent market practices – determination of binder and outsourcing fees – resulting in conflicted advice – poor customer outcomes
- FSB & NT recognition of need to address these concerns while ensuring sustainability of the intermediary sector and enabling a vibrant landscape for financial advice
- Request for alternative industry solution to proposed fee caps
- Key principles to inform proposed alternative:
 - Binder holders should not be remunerated differently by different insurers for performing similar activities
 - Common understanding on what would constitute a “reasonable and commensurate” fee for specific binder and binder-related activities
 - Detailed criteria that may be considered when determining whether remuneration for specific activities is reasonable and commensurate – specific factors relating to potentially conflicted advice
 - Consistent governance and operational standards to be applied by any insurer that wishes to outsource binder functions – including data integration capability and technical expertise to adequately perform such functions
- Deadline for submission of proposals - 30 June 2017
- Proposals have informed current thinking on changes to draft Regulations

KEY THEMES



KEY THEMES BEING ADDRESSED

1. REMUNERATION

1.1. Binder Fees

1.2. Policy Data Administration Services (PDAS)

1.3. General Principles for Determining Remuneration

2. OPERATIONAL REQUIREMENTS: BINDERS & PDAS

2.1. Frequency of data exchange

2.2. Access to data on demand

2.3. Data integration

3. GOVERNANCE & REPORTING: BINDERS & PDAS

4. TRANSITIONAL ARRANGEMENTS: BINDERS & PDAS

5. CAUSAL EVENTS



CURRENT THINKING ON PROPOSED AMENDMENTS PER THEME



REMUNERATION: BINDER FEES (LT&ST)

PREVIOUS DRAFT

- Prohibition on (b) – (d) underwriting functions for NMI's who provide advice and associates
- Prohibition on commercial lines binders for NMI's who provide advice and associates (ST only)
- Proposed binder fee caps for NMI's who provide advice and associates:

Activity (a)	2%
Activity (b) + (c) + (d)	2%
Activity (e)	2%
TOTAL	6%



REMUNERATION: BINDER FEES (LT&ST)

CURRENT THINKING

- Informed by commentator feedback, industry association proposals and FSB analysis of Binder Information Request 3 of 2016
- Recognition of “limited” underwriting activities (b) – (d) by NMI’s who provide advice and associates
- Removal of prohibition on commercial lines binders for NMI’s who provide advice and associates (ST only)
- Revised fee caps for NMI’s who provide advice and associates:

Activity (a) + <u>limited</u> (b) + (c) + (d)	5%
Activity (e)	4%
TOTAL	9%



REMUNERATION: BINDER FEES (LT&ST)

CURRENT THINKING *cont...*

- Further input is required on the following:
 - Appropriate cap for performing activity (a) only without limited underwriting (b) – (d)
 - Options:

	(a)	(b) – (d)	TOTAL
Option 1	4%	1%	5%
Option 2	3.5%	1.5%	5%
Option 3	3%	2%	5%

- ST: More granular activity analysis to be done by industry workgroup
- LT:
 - Currently same as for ST
 - Industry work group proposed sliding scale but insufficient detail to test validity of proposal
 - Awaiting additional information to confirm if LT caps should differ from ST



REMUNERATION: PDAS (LT&ST)

PREVIOUS DRAFT

- Policy data administration services (PDAS) identified as outsourced activity for which a maximum fee of 2% could be paid
- Amendment to definition of “services as intermediary” to align LT & ST Acts and specifically excluded PDAS

CURRENT THINKING

- Reverts to original definition of “services as intermediary” - subject to further activity segmentation work to be done during later RDR phases to ensure holistic approach to remuneration
- But definition now explicitly includes PDAS – we still consider it to be an act “directed towards” entering into, maintaining or servicing a policy. Further demarcation is subject to outcome of future activity segmentation work



REMUNERATION: PDAS (LT&ST)

CURRENT THINKING *cont...*

- Additional remuneration will be allowed for PDAS subject to operational requirements being met
- PDAS fee to be capped for NMI's who provide advice and associates – may not be higher than binder fee cap for performing only activity (a) - subject to exemption provisions if can demonstrate alignment with general remuneration principles
- Input required: Are there material differences between binder activity (a) and PDAS that would suggest a lower fee for PDAS?



GENERAL REMUNERATION PRINCIPLES (LT&ST)

PREVIOUS DRAFT

- Replicated general principles for determining remuneration from Directive 159.A.i (ST<)

CURRENT THINKING

- Retains general principles but includes detailed criteria to assess compliance with general principles – to ensure consistency of application
- Clarifies applicability only to remuneration covered by Part 3:
 - Remuneration for services as intermediary (including PDAS)
 - Binder fees
- Specific reference to robustness of activity based costing or similar exercise for Registrar to ascertain reasonableness of remuneration
- Prior application to Registrar for remuneration to independent intermediary or representative for “other” services – Registrar must be satisfied that the “other” service, function or activity does not in fact fall within Part 3 for which specified remuneration limits apply, i.e. commission caps, PDAS fee caps, binder fee caps



OPERATIONAL REQUIREMENTS (LT&ST)

PREVIOUS DRAFT

- PDAS – required “complete” integration and “continuous” access to data
- Binders – No specific operational requirements, but prescribed inclusion of “continued” data access and 24 hour data exchange in binder agreements

CURRENT THINKING

- Clarifies and strengthens equivalent operational requirements for PDAS and binders
- Ability to ensure insurer’s access to data on demand
 - For clarity “continuous access” has been changed to access on demand – as and when requested by insurer
- Ability to facilitate data exchange at prescribed intervals
 - 24 hour data exchange
 - Monthly data exchange assistance and other funeral business (LT only)



OPERATIONAL REQUIREMENTS (LT&ST)

CURRENT THINKING *cont...*

- Integration capability
 - Definition of “integration” to be clarified
 - Focus on format of data received by insurer
 - Format of data must be readily recognisable and capable of being meaningfully utilised immediately by the core insurance and reporting systems and applications of the insurer, including for specified regulatory purposes



GOVERNANCE & REPORTING (LT&ST)

PREVIOUS DRAFT

- Contained general governance requirements for binders

CURRENT THINKING

- Clarifies and strengthens governance requirements for binders and reporting requirements for binders and PDAS
- Governance requirements for binders:
 - Insurer may only enter into a binder agreement if ensures delivery of improved outcomes for customers, will not result in a duplication of administrative efforts or costs and will not impede the insurer's ability to manage its conduct of business risks
 - Insurer must demonstrate it has the ability and resources necessary to ensure effective oversight of binder holder at all times
 - Insurer must satisfy itself of the binder holder's governance and internal control framework, fitness and propriety and technical and operational ability prior to entering into the agreement and on an ongoing basis thereafter
 - Insurer must regularly review and act upon the information received from the binder holder to ensure delivery of fair outcomes to policyholders on an ongoing basis



GOVERNANCE & REPORTING (LT&ST)

CURRENT THINKING *cont...*

- Reporting requirements for binders and PDAS
 - Insurer must notify the Registrar of all new binder and PDAS agreements 60 days prior to entering into such agreements
 - Notification form will require insurers to self-attest that all requirements have been met



TRANSITIONAL ARRANGEMENTS: BINDERS & PDAS (LT&ST)

1. AGREEMENTS ENTERED INTO ON OR AFTER EFFECTIVE DATE

- Binders and PDAS
- Fee caps, operational, governance and reporting requirements will be effective immediately

2. AGREEMENTS ENTERED INTO BEFORE 1 JANUARY 2017

- Binders only
- Fee caps – twelve (12) months from effective date
- Governance requirements - effective immediately as these should already be in place
- Operational (data) requirements – twenty four (24) months from effective date subject to specified milestones to be agreed with industry



TRANSITIONAL ARRANGEMENTS: BINDERS & PDAS (LT&ST)

3. AGREEMENTS ENTERED INTO BETWEEN 1 JANUARY 2017 & EFFECTIVE DATE

- Binders only
- Fee caps – six (6) months from effective date
- Governance requirements - effective immediately
- Operational (data) requirements – twenty four (24) months from effective date subject to specified milestones to be agreed with industry

NOTE: The general principles for determining remuneration will become effective immediately.



CAUSAL EVENTS (LT)

1. CAUSAL EVENT CHARGE LIMITS

- Very few comments received
- Remains unchanged
- Effective from 1 January 2018

2. DEDUCTION OF ADMINISTRATION CHARGE

- Part 5A has been aligned with Part 5B to provide for the deduction of administration charges
- Allowable deductible administration charge has been increased from R300 to R500 in respect of any causal event charges
- Effective from 1 January 2018



CAUSAL EVENTS (LT)

3. VARIABLE PREMIUM INCREASES

- Remains unchanged
- Variable premium increases on specific policies to be considered a new policy for commission calculation purposes
- Timing aligned with implementation of revised causal event charge limits
- Effective from 1 January 2018

4. GENERAL PRINCIPLES FOR CAUSAL EVENT CHARGES

- Remains unchanged
- Effectively replaces Directive 153.A.ii (LT)



OTHER GENERAL PROPOSED AMENDMENTS



OTHER GENERAL PROPOSED AMENDMENTS

1. DEFINITION OF “REPRESENTATIVE” (LT)

- Gives partial effect to RDR Proposal V: *Insurer tied advisors may no longer provide advice or services in relation to another insurer's products*
- Strong comments received requesting this to be deferred to enable alignment with final RDR advisor categorisation requirements
- Definition has been retained as it seeks to address an immediate and prevalent conflict risk that requires urgent intervention
- Timelines have been aligned to new effective date

2. COMMISSION FOR CREDIT GROUP SCHEMES WITH ADMIN (LT)

- Reduction in commission from 22.5% to 7.5% - gives effect to RDR Proposal AAA
- Remains unchanged
- Activity may be remunerated as binder fee or PDAS subject to operational requirements and finalised caps
- Transitional period: twelve (12) months from effective date



OTHER GENERAL PROPOSED AMENDMENTS

3. PROVISIONS RELATING TO REPLACEMENT RISK POLICIES (LT)

- Conditions for payment and clawback of commission
- Requirement has been retained and aligned with Rule 19 of PPRs
- Transitional period: three (3) months from effective date to allow for system changes

4. LIMITATION ON REMUNERATION PAYABLE BY POLICYHOLDER TO INDEPENDENT INTERMEDIARY OR REPRESENTATIVE (ST)

- Gave effect to repeal and replacement of “section 8(5)” fee
- Requirement has been removed and will be more appropriately dealt with in the PPRs

5. UMAs ENTITLED TO PROFIT SHARE ATTRIBUTABLE TO BINDER (ST)

- Erroneous omission in previous draft of ST Regulations
- Will be re-inserted in draft Regulations



OTHER GENERAL PROPOSED AMENDMENTS

6. INCIDENTAL BINDER ACTIVITIES

- Many commentators expressed concerns that the definition of “incidental” was too vague
- Propose to delete definition – ordinary grammatical meaning will continue to apply
- Many commentators felt that it would be impractical to list all possible incidental activities
- Propose to delete requirement that all incidental activities must be included in binder agreement



THANK YOU