



**STATEMENT SUPPORTING THE PROPOSED  
AMENDMENTS TO THE FIT AND PROPER  
REQUIREMENTS FOR FINANCIAL SERVICES  
PROVIDERS, 2017**

## **1 BACKGROUND AND PURPOSE OF THE STATEMENT**

- 1.1 In terms of section 98 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (Financial Sector Regulation Act), a financial sector regulator may not make a regulatory instrument unless it has published the following documents:
- (i) a draft of the regulatory instrument;
  - (ii) a statement explaining the need for and the intended operation of the regulatory instrument;
  - (iii) a statement of the expected impact of the regulatory instrument; and
  - (iv) a notice inviting submissions in relation to the regulatory instrument, stating where, how and by when submissions are to be made.
- 1.2 In fulfilment of the abovementioned requirements, the Financial Sector Conduct Authority (Authority) has prepared a statement of the need for, intended operation and expected impact of the proposed amendments to the Fit and Proper Requirements for Financial Services Providers, 2017 (proposed amendments).
- 1.3 This Statement takes into account industry comments received in response to the proposed amendments that were published for public comment on 29 March 2018.

## **2 STATEMENT OF NEED**

- 2.1 The Insurance Act, 2017 (Act No. 18 of 2017) (Insurance Act) was promulgated on 18 January 2018. The Insurance Act repealed and replaced all the prudential and licensing requirements that were contained in the Long-term Insurance Act, 1998 (Act No. 52 of 1998) (LTIA) and Short-term Insurance Act, 1998 (Act No. 53 of 1998) (STIA) and introduced new terminology and classifications of insurance business
- 2.2 The introduction of the Insurance Act resulted in various references to terminology and classes of insurance business in the LTIA and STIA, as contained in the Fit and Proper Requirements for Financial Services Providers, 2017 (Fit and Proper Requirements), being outdated.
- 2.3 The main purpose of the proposed amendments is to update the outdated terminology and incorrect references in order to ensure alignment between the terminology and classes of insurance business contained in the Fit and Proper Requirements, with those contained in the Insurance Act.

2.4 The classes of insurance business as contained in Schedule 2 of the Insurance Act have been mapped against the current insurance product categories as contained in the Fit and Proper Requirements.

2.5 The aim is to ensure that Financial Services Providers (FSPs) are able to render financial services in respect of insurance policies that are in nature and character the same, regardless of whether the policies are issued by an insurer that was registered under the LTIA or STIA (and is in the process of being converted to a licence under the Insurance Act), or by an insurer that is licensed under the Insurance Act.

2.6 Additional proposed amendments include –

2.6.1 Definition of “cash”: The amendment fixes a spacing error between the definition that was published for comment and the one that was published in the final Fit and Proper Requirements;

2.6.2 Definition of “CPD activity”: The amendment places a requirement on the Professional Bodies to only accredit activities that are verifiable.

2.6.3 Section 40: The amendment seeks to clarify that an FSP may not appoint a person as a representative who is an unrehabilitated insolvent. An additional amendment also provides that if a representative is already appointed and then becomes sequestrated, the FSP can retain that person as a representative provided that it implements sufficient risk mitigating controls to ensure that the sequestration doesn’t have an impact on clients or the FSP.

2.6.4 Definitions of “annual expenditure” and “remuneration”: Amendment removes the reference to “contractor” from these definitions as this will result in better alignment with general accounting policies insofar as it relates to the classification of remuneration; and

2.6.5 Sections 27 and 52: Merely a correction of technical errors.

### **3. STATEMENT OF IMPACT OF THE PROPOSED AMENDMENTS**

3.1 Alignment of terminology as explained in paragraphs 2.1 to 2.5 above is expected to have very little to no impact on FSPs or their representatives as no new requirements are essentially

created. The intention is just to align the existing terminology and classes of insurance business to the new Insurance Act terminology and classes of insurance business.

- 3.2 Due to the nature of the additional amendments referred to in paragraph 2.6 which do not contain any material or significant amendments, the impact of these amendments on FPS's and their representatives is also expected to be minimal. Commentators also did not raise any concerns from an impact perspective.

#### **4 STATEMENT OF INTENDED OPERATION OF THE PROPOSED AMENDMENTS**

- 4.1 The proposed amendments are intended to take effect before the end of 2019 or early 2020.
- 4.2 The amendments need to take effect as soon as possible in order to provide clarity to industry on the application of the Fit and Proper Requirements in the context of the new Insurance Act terminology and classes of insurance business.

#### **5 WAY FORWARD**

- 5.1 The proposed amendments have been submitted to Parliament in accordance with section 103(1) of the Financial Sector Regulation Act.
- 5.2 As soon as the 30 day period referred to in section 103(1) of the Financial Sector Regulation Act has elapsed, the Authority will proceed to publish the final amendments.<sup>1</sup>

---

<sup>1</sup> Assuming there are no delays emanating from the Parliamentary process.