

FSCA COMMUNICATION 2 OF 2019 (INSURANCE)

Update on the development of a format for the replacement advice record in terms of Rule 19 of the Policyholder Protection Rules (Long-term Insurance), 2017

27 March 2019

1. PURPOSE

The purpose of this Communication is to –

- provide a status update on the development of a format for the replacement advice record (“RPAR”) referred to in Rule 19.2.6 of the Policyholder Protection Rules (Long-term Insurance), 2017 made under section 62 of the Long-term Insurance Act, 1998 (Act No. 52 of 1998) promulgated by Government Notice No. 1407 in *Government Gazette* 41321 of 15 December 2017 (“PPRs”);
- inform stakeholders that a revised draft of the RPAR has been published on the FSCA’s website for further public consultation; and
- confirm that the FSCA does not intend to further extend the period for compliance with Rule 19 of the PPRs and Regulation 3.9A of the Regulations made under the Long-term Insurance Act, 1998 (“Regulations”) beyond 1 July 2019.

2. BACKGROUND

- 2.1. Rule 19 of the PPRs sets out the prerequisites for a long-term insurer when entering into an individual risk policy that constitutes a replacement as defined in the PPRs.
- 2.2. In terms of Rule 19 an insurer must, prior to entering into an individual risk policy that constitutes a replacement, obtain a copy of the record of advice that the intermediary is required to provide to the policyholder in accordance with section 9(1)(d) of the FAIS General Code of Conduct and satisfy itself that the record complies with the disclosure requirements set out in section 8(1)(d) of the General Code.
- 2.3. Rule 19.2.6 provides that the FSCA may determine the format for the RPAR referred to in Rule 19.
- 2.4. In March 2018 the former the Financial Services Board (“FSB”) engaged with the Market Conduct Regulatory Framework Steering Committee (“MCRF SteerCo”) on a proposed template for the format of the RPAR. The draft template was subsequently revised based on input received from members

of the MCRF SteerCo and an updated draft template was issued, in terms of Insurance (LT) Notice 2 of 2018, for public comment on 5 September 2018.

2.5. The intended outcome of prescribing a consistent format for the RPAR is to ensure that the comparison done by an intermediary between a replacement policy and a replaced policy:

- is clearly and easily understood by the policyholder;
- contains a concise analysis of the suitability of both the replacement and the replaced policy;
- contains sufficient information regarding the replacement policy and the replaced policy to allow the policyholder to make an informed decision about the suitability and appropriateness of the respective policies; and
- sets out clearly why the intermediary is of the view that the replacement policy would lead to more favourable outcomes for the policyholder.

3. DEVELOPMENTS SINCE SEPTEMBER 2018

3.1. Based on the comments received through the public consultation process which ended on 27 September 2018 and as a result of subsequent engagements with individual insurers, the FSCA has recognised that the previous proposed template for the RPAR raised certain practical challenges for intermediaries and insurers and may not necessarily have been designed in such a way as to achieve the intended outcomes envisaged by Rule 19 of the PPRs.

3.2. On 6 December 2018 the FSCA published FSCA Communication 1 of 2018 which provided an update on the developments in this regard. This was published alongside FSRA Compliance Extension Notice 1/2018 (LTIA) providing an extension of period for compliance with Rule 19 of the LT PPRs and Regulation 3.9A of the regulations under the LTIA until 1 July 2019.

3.3. During February 2019 two proposed alternative templates based on previous industry feedback were circulated for further consideration and input by members of the MCRF SteerCo.

3.4. Based on the feedback received, including input from industry stakeholders who volunteered to populate and test the practical effectiveness of the two proposed templates, the FSCA has today published a further revised and streamlined version of the draft RPAR template for a final round of formal consultation.

3.5. The revised RPAR template has been published on the FSCA's website alongside this Communication in terms of *Insurance (LT) Notice 2 of 2019: Revised draft Determination - Format for replacement advice record (individual risk policies)*.

4. NEXT STEPS

- 4.1. Interested parties are invited to submit comments on the revised RPAR template in writing by **30 April 2019** to FSCA.INSRPARformat@FSCA.co.za.
- 4.2. Parties who wish to populate the draft template with fictional data in order to illustrate its appropriateness and suitability are welcome to do so as part of their written comments.
- 4.3. The FSCA intends to exempt insurers from compliance with Rule 19 in respect of the replacement of individual risk policies that constitute funeral policies or microinsurance policies as defined in Rule 2A of the PPRs. The exemption, in terms of section 281 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) will shortly be published on the FSCA's website. Please note that, this exemption notwithstanding, the relevant disclosure obligations relating to replacements in terms of the FAIS General Code will continue to apply in respect of these policies.
- 4.4. Please note that the FSCA will not be extending the period for compliance with Rule 19 of the PPRs and Regulation 3.9A of the Regulations beyond 1 July 2019, as set out in FSRA Compliance Extension Notice 1/2018 (LTIA). Insurers are expected to ensure that they are ready and able to comply with these requirements on 1 July 2019. Failure to do so may result in regulatory action being taken against non-compliant insurers.

5. CONTACT

For further information regarding this Communication please contact the Regulatory Framework Department of the FSCA by emailing Lezanne Botha at lezanne.botha@fsc.co.za.