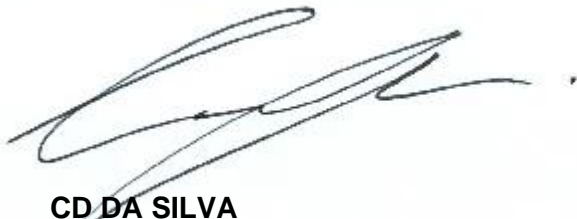


FSCA INS Notice 5 of 2020

LONG-TERM INSURANCE ACT, 1998 (ACT NO. 52 OF 1998)

**EXEMPTION OF INDEPENDENT INTERMEDIARIES FROM REGULATION 8.2(2)
OF THE REGULATIONS UNDER THE LONG-TERM INSURANCE ACT, 1998
(ACT NO. 52 OF 1998)**

The Financial Sector Conduct Authority, under Regulation 8.4 of the Regulations under the Long-term Insurance Act, 1998, read with section 281(3) of the Financial Sector Regulation Act, 2017, hereby proposes to exempt certain entities from the requirements of Regulation 8.2(2) of the Regulations under the Long-term Insurance Act, 1998, to the extent set out in the Schedule.



CD DA SILVA

FOR THE FINANCIAL SECTOR CONDUCT AUTHORITY

Date of Publication: 16 March 2020

SCHEDULE

EXEMPTION OF INDEPENDENT INTERMEDIARIES FROM REGULATION 8.2(2) OF THE REGULATIONS UNDER THE LONG-TERM INSURANCE ACT, 1998 (ACT NO. 52 OF 1998)

1. Definitions

In this Schedule “**the Act**” means the Long-term Insurance Act, 1998 (Act No. 52 of 1998), and any word or expression to which a meaning is assigned in the Act bears, subject to context, that meaning unless otherwise defined, and -

“**Authority**” means the Financial Sector Conduct Authority as defined in section 1(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);

“**credit agreement**” means a credit agreement as defined in the National Credit Act, 2005 (Act No. 34 of 2005); and

“**Regulation**” refers to the Regulations made under section 72 of the Act promulgated by GN R.1493 in *Government Gazette* 19495 of 27 November 1998 and amended from time to time.

2. Extent and Duration of Exemption

- (1) Independent intermediaries are hereby exempted from Regulation 8.2(2) insofar as it relates to receiving, holding or in any other manner dealing with premiums payable to a long-term insurer.
- (2) The exemption referred to in subparagraph (1) is subject thereto that the –
 - (a) rendering of services as an intermediary is not the primary business of the independent intermediary;
 - (b) long-term policy in respect of which the independent intermediary receives, holds or deals with premium is ancillary or consequential to –
 - (i) another commercial agreement between the independent intermediary and the policyholder or the policyholder and the person liable to pay the premium, other than an agreement related to the rendering of services as intermediary; or
 - (ii) a credit agreement;
 - (c) premium received, held or dealt with by the independent intermediary is ancillary to and forms part of the collection of monies payable to the intermediary in respect of the commercial or credit agreement referred to in subparagraph (b);
 - (d) independent intermediary –
 - (i) accounts to the relevant long-term insurer for any premiums received properly and promptly;
 - (ii) ensures that the premiums collected are appropriately ring-fenced from other operational activities of the intermediary to ensure the intermediary's business operations and own funds are separately accounted for from premiums; and
 - (iii) ensures that the long-term insurer has access to current, accurate and complete data held by the independent intermediary regarding any of the long-term insurer's policyholders, as and when requested.

- (3) Failure by an independent intermediary to comply with any conditions referred to in subparagraph (2) will result in the exemption no longer being applicable to that independent intermediary.
- (4) This exemption, subject to paragraph 3, will be valid for a period of 2 years from the effective date.

3. Amendment and withdrawal of Exemption

This Exemption is subject to -

- (1) amendment thereof published by the Authority by notice on the web site of the Authority;
and
- (2) withdrawal in a like manner.

4. Short title and commencement

This Notice is called the Exemption of Independent Intermediaries from the Regulations under the Long-term Insurance Act, 1998, and comes into effect on 16 March 2020.