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COMPLIANCE AND RISK MANAGEMENT

**Collection of Premiums:
The current and the future**

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Agenda

- What has changed?
- What do current regulations require?
- Differences between LT and ST premiums.
- The FSCA Position Paper.
- FSCA concerns.
- The proposals in a nutshell.
- The unanswered questions.

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What has changed...

- IGF requirements have been abolished.
- Directive 156 replaced.
- Amendments to the regulations to the LTIA and the STIA.
- Purpose to align the collection and treatment of premiums across Insurance Industry.

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What do the current regulations require?

- Written authority from insurer which includes:
 - Provisions regarding the duration of authority;
 - Standard of services to be provided;
 - Purpose for which premium may be utilised;
 - Operational requirements;
 - How authority may be terminated;
 - Reporting to insurer; and
 - How insurer will monitor.

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What do the current regulations require?

- Premiums may not be utilised in a way that increases risk of unfair outcomes or risk to insurer.
- Holder of authority may not delegate to another.
- Insurer must satisfy itself regarding Fit and Proper and operational ability.
- Must pay over to insurer within 45 days.

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What do the current regulations require?

- Collector of premiums must open and maintain a separate bank account.
- The separate bank account may only contain premiums. No own funds allowed.
- Monies received electronically must go directly into that account and cash must be deposited within 1 business day.
- May retain only refunds and commission.

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LT vs ST Premiums

- Reg 4.2 (1) of STIA:
 - “The payment of a premium to an independent intermediary, authorised under Section 45 to receive a premium, is deemed to be a payment to the insurer under the policy concerned.”
- Sec 47(3) of LTIA:
 - “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.”

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LT vs ST Premiums

- Moonstone’s view is that this is a significant difference when it relates to Sec 19(3) of FAIS.
- ST premiums are not viewed as client funds.
- LT premiums should be viewed as client funds, and Sec 19(3) reports should be filed unless exempted.

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The FSCA Position Paper

- IMPORTANT
 - This is not legislation and only indicative of current FSCA thinking.
- FSCA concerned about:
 - Undesirable business practices during 45 day period;
 - Sharing of interest which leads to conflict;
 - Abuse of collection mandates to retain control of client information;
 - Premiums being invested in illiquid investments; and
 - IGM Curatorship.

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The FSCA Position Paper

- FSCA Thinking:
 - Given modern technology the 45 day rule is archaic;
 - Premium collection or elements thereof should be viewed as remunerable outsourced activity;
 - Direct collection by insurer is preferable; and
 - Recognition that there are many elements to **collecting** and **accounting** for premiums.

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Proposal 1

- Identify the activities related to premium collection, including:
 - Collection;
 - Reconciliation; and
 - Administration.
- Once that is done, decide what to “carve out” and determine suitable remuneration for outsourced activities.

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Proposal 2

- Define criteria for “qualifying intermediaries”.
- Includes operational aspects such as:
 - Systems to allow payments to insurers within 3 days;
 - Data integration capabilities;
 - System testing and disaster recovery etc.

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Proposal 3,4 & 5

- **Proposal 3**
 - Treatment of premiums of trust monies.
- **Proposal 4**
 - Reduction of premium remittance period to 3 days.
- **Proposal 5**
 - Interim solution to address remuneration for direct collections – possibly exemption.

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The unanswered questions

- FSCA admits more work and engagement needs to be done.
- Specific models such as Retail Credit, Digital Broadcasting and Marine Insurance needs to be considered.
- If premium collection is removed from definition of services as intermediary, then what happens to Commission Caps?

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Our view

- Change will come.
- Strict requirements will be set for:
 - intermediaries looking to collect premiums, which will require big system upgrades.
- Insurers will face heavy oversight burdens, which may cause a reduction in the number of intermediaries authorised to collect.
- Watch this space ...

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FAIS Notice 123/2017

- Exempts FSPs who meet the requirements contained in the notice from having to submit Sec 19(3) Reports.
- Still refers to BN 106/2008
- Expires 31 December 2019
- Unknown if it will be re-issued in terms of BN 104/2017

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Questions?

Thank you!

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