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COMPLIANCE AND RISK MANAGEMENT



Policyholder Protection Rules

... Some changes

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General

- Repeal of 2004 PPR
- Comments were due by 15 March 2017
- Target effective date – before end of 2017
- Registrar may set different dates for different provisions of PPR to come into operation

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COMPLIANCE AND RISK MANAGEMENT

Application

- Applies to all new and existing policies
- Insurers responsible for meeting PPR requirements

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Contents

- Chapter 1 - Interpretation
- Chapter 2 - Fair Treatment Of Policyholders
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- Chapter 7 - No Unreasonable Post-Sale Barriers
- Chapter 8 - Administration

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Fair Treatment

Rule 1 - Policies and Procedures dealing with the Fair Treatment of Policyholders

- Insurers must act “with due regard to the convenience of policyholders”
- TCF Outcomes included in Rules
- Must be reviewed regularly

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Products And Product Design

Rule 2 - Product Design

- Information on customer needs
- Thorough assessment of products
- Due diligence on white labelling
- Signed off by managing executive

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Products And Product Design

Rule 3 - Consumer Credit Insurance

- All mandatory policies to comply with CC Regulations
- Substitution of insurance
- **Group Schemes**

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Products And Product Design

Other Rules

- Rule 4 - Fund Policies (LT Only)
- Rule 5 - Cooling-off rights
- Rule 6 - Negative Option Selection
- Rule 7 - Determining Premiums
- Rule 8 - Void Provisions

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Products And Product Design

Other Rules

- Rule 9 - Waiver of Rights
- Rule 10 - Blank or incomplete documents
- Rule 11 - Consent required to insure a life (deferred)
- Rule 12 - Policy Loans and Cessions

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Promotion, Marketing & Disclosure

Rule 13 - Advertising

- any direct or indirect visual or oral communications
- transmitted by any means of which a person seeks to create public interest in the business of an insurer or in policies, or to induce the public (or a part thereof) to purchase, increase, modify, reinstate, surrender, replace or retain a policy . . .
- which does not purport to provide detailed information to a specific policyholder regarding a specific policy

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Promotion, Marketing & Disclosure

Rule 13 - Advertising

- 1) General Principles
- 2) Factually correct and not misleading
- 3) Public interest
- 4) Insurer identified
- 5) Record keeping
- 6) Negative option marketing

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Promotion, Marketing & Disclosure

Rule 13 - Advertising

- 7) Unwanted direct marketing
- 8) Comparative marketing
- 9) Puffery
- 10) Endorsements – must be genuine
- 11) Loyalty benefits or bonuses
- 12) Prominence
- 13) Investment Policies

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Promotion, Marketing & Disclosure

Rule 13 - Advertising

- Records to be kept for 3 years
- Advertisements must comply code of advertising practice issued by the Advertising Standards Authority
- Intermediaries must observe this Rule
- Long and complicated – 5 pages

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Promotion, Marketing & Disclosure

Rule 13 – Advertising - Intermediaries

“An insurer must at all times ensure that any intermediary . . .that distributes or promotes its policies has appropriate processes in place to ensure that any advertisements, brochures or similar communications in respect of such policies are consistent with this rule.”

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Promotion, Marketing & Disclosure

Rule 14 - Disclosure and Record Keeping

- General disclosure requirements
- Point of entry requirements
- Ongoing disclosures
- Disclosure requirements similar to GCOC requirements
- Systems, procedures to “record all verbal and written communications”

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Intermediaries and Distribution

Rule 15 - Arrangements with Intermediaries

- Must be FAIS authorised
- Proper due diligence in each instance
- Written Agreements required
- Requests for information

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Intermediaries and Distribution

Additional Fees - Short Term only

- Must be for an actual service provided
- Service other than intermediary service
- Does not relate to any other remunerated service
- Reasonable and commensurate
- Amount and purpose explicitly agreed in writing

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Product Performance and Services

Rule 16 - Data Management

- "Processing" definition same as POPIA
- Must have continuous access to data (Reg 6.3(1)(p))
 - "comprehensive and reliable data to ensure that the insurer is able to comply with any regulatory data management requirements" at least every 24 hours

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Product Performance and Services

Rule 17 - On-going Review of Performance

- Monitor :
 - Product line
 - Distribution methods
 - Disclosure documents
- Products must be consistent with needs of targeted policyholders and deliver fair outcomes

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Product Performance and Services

Rule 18 - Premium Reviews (LT only)

- Only if the policy makes provision for reviews
- Must reasonably balance interests
- Risk policy increase – must provide alternatives

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No Unreasonable Post-sales Barriers

Rule 19 - Claims Management

- 1) Establishment of claims management framework
- 2) Requirements for claims management framework
- 3) Allocation of responsibilities
- 4) Claim escalation and review process
- 5) Decisions relating to claims

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Rule 19 - Claims Management

- 6) Time limitation provisions for legal action
- 7) Record keeping, monitoring and analysis
- 8) Communications with claimants
- 9) Reporting of claims information
- 10) Prohibited claims practices

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Rule 19 - Claims Management

“ . . . must have processes to ensure compliance with prescribed requirements for reporting claims information to any relevant designated authority or to the public as may be required by the Registrar “

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No Unreasonable Post-sales Barriers

Rule 20 - Complaints Management

“complaint”

. . . an expression of dissatisfaction . . . that -

- a) the insurer or its service provider has contravened or failed to comply with an agreement, a law, a rule, or a code of conduct which is binding on the insurer or to which it subscribes;
- b) the insurer or its service provider’s maladministration or wilful or negligent action or failure to act, has caused the person harm, prejudice, distress or substantial inconvenience; or
- c) the insurer or its service provider has treated the person unfairly;

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Rule 20 - Complaints Management

Industry Workshop Comment

- *Provision made to include complaints relating to premiums, premium collection and policy lapses in existing TCF aligned complaint categories*

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No Unreasonable Post-sales Barriers

Rule 20 - Complaints Management

- 1) Establishment of complaints management framework
- 2) Requirements for complaints management framework
- 3) Allocation of responsibilities
- 4) Categorisation of complaints (9 categories)
- 5) Complaints escalation and review process

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Rule 20 - Complaints Management

- 6) Decisions relating to complaints
- 7) Record keeping, monitoring and analysis
- 8) Communication with complainants
- 9) Complaints that are not reportable complaints
- 10) Engagement with the Ombud

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Rule 20 - Complaints Management

Requirements for complaints management framework.

... must at least, provide for ... effective oversight by the insurer that the service provider has adequate complaints management processes in place to ensure fair treatment of complainants

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Rule 20 - Complaints Management

Reporting complaints information.

... must have processes to ensure compliance with prescribed requirements for reporting complaints information to any relevant designated authority or to the public as may be required by the Registrar

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No Unreasonable Post-sales Barriers

Rule 21 - Replacement of (Risk) Policies (LT Only)

- Confirmation from Intermediary
- Record of Advice (*s9(1)(d) General Code of Conduct*)
- Managing Executive's Obligations
- Intermediary's failure to disclose
- Commission restrictions (*Reg 3.9A*)

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Rule 22 - Termination of Policies

- Termination by Insurer
 - Individuals
 - Group Schemes
- Termination of a group scheme by the policyholder

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Arrangements with Intermediaries

Rule 15 - Arrangements with Intermediaries

- Written Agreements required
- S 12 GCOC - A provider must structure the internal control procedures concerned so as to provide reasonable assurance that all applicable laws are complied with

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Administration


Penalties Sanctions for contravention

- Insurers or Intermediaries
 - R5 million or 5 Years

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And So . . .



Let's be careful out there

Sgt Phil Esterhaus

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