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COMPLIANCE AND RISK MANAGEMENT

Update on the proposed changes to the Regulations made under the Long and Short-Term Insurance Acts

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The December 2016 proposals

- Amended definition of “services as an intermediary” to include administrative services.
- Binder fee caps of approximately 4% for NMI binder holders licenced to provide advice.
- Policy Data Administration Service fee of 2%.
- Limitation on binder functions that may be performed.
- No commercial lines binders for NMI's.
- Expanded definition of “Associates”.

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The latest proposals

- Some important definitions:
 - Integration;
 - Cell Structures;
 - Policy Data Administration Services (“PDAS”);
 - Services as intermediary – includes PDAS;
 - Expanded definition of “Associate”:

(a)

has the meaning assigned to it in the General Code of Conduct; and

(b)

in addition to paragraph (a), includes, in respect of a juristic person, –

(i)

another juristic person that has a significant owner or member of the governing body of such other person that is also a significant owner or member of the governing body of such other person of the first mentioned juristic person; and

(ii)

another juristic person that has a person as a significant owner or member of the governing body who is an associate (within the meaning of paragraph (a)) of a significant owner or member of the governing body of the first mentioned juristic person. **Term has been defined.**

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The impact on binder holders

- Does not impact on UMA's.
- NMI binder holders who are licenced to provide advice or who are associated with an FSP who is licenced to provide advice are still subjected to a revised fee cap.
- NMI binder holders not licenced to give advice, (bona fide administrators) are not subject to fee caps.

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The impact on binder holders

- NMI binder holders licenced to provide advice will not be limited to which binder functions they can perform. (Can perform all 5).
- NMI binder holders licenced to provide advice will be permitted to perform binder functions wrt Commercial Lines ST Insurance Business.

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The revised fee caps

- Applicable to NMI's licence to provide advice.
- Per activity fee.

Binder function	Fee payable	Fee allocation
(a) Enter into, vary or renew	5%	3.5%?
(a) Determine wording		.5%?
(a) Determine premiums		.5%?
(a) Determine benefits		.5%?
(a) Settle claims	4%	

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Policy Data Administration Services

- Constitutes service as intermediary – but not remunerated by commission.
- Specific regulation regarding remuneration.
- Unsure of fee (+/- 3%).
- Not payable if performing binder function of entering into, varying or renewing obo insurer.
- Data exchange and integration.
- Insurer may apply to pay more.
- Insurer must inform FSB 60 days before new PDAS agreement.

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Other remuneration

- Part 5 prescribes general requirements:
 - Reasonable and commensurate;
 - Not result in being paid twice for same activity;
 - Actual or potential conflicts of interests must be effectively mitigated;
 - Must not lead to unfair outcomes for policyholders.
- What happens to “Sec 8(5) Fees” ?
 - Moved to PPR

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Other remuneration

- For any fee other than:
 - Commission
 - Binder Fee
 - PDAS Fee

The insurer must apply in writing to the FSB for approval.

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Insurer obligations

- May only enter into a binder if:
 - It is necessary for **improved** outcomes;
 - Will not result in **duplication** of insurer's administrative costs;
 - Will not impede Insurer's ability to **pro-actively** identify, manage, assess and report on the risks of poor policyholder outcomes.
- Must notify FSB 60 days before entering into new binder agreements.

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Governance and oversight

- Insurer must demonstrate that:
 - It has the resources to exercise **effective** oversight;
 - It has satisfied itself re the binder holder's:
 - Governance, risk management and control framework
 - Fitness, propriety and technical expertise
 - It has documented controls in place to verify information provided by binder holder.
 - Has appropriate contingency plans in place.
 - That integration of information systems are possible.

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Proposed transitional arrangements

- Agreements/policies entered into before 1 Jan 2017:
 - Fee caps apply 12 months from effective date.
 - Governance requirements become applicable immediately.
 - Operational requirements within 24 months.

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Proposed transitional arrangements

- Agreements/policies entered into between 1 Jan 2017 and effective date:
 - Fee caps apply 6 months from effective date.
 - Governance requirements become applicable immediately.
 - Operational requirements within 24 months.

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Proposed transitional arrangements

- Agreements/policies entered into after the effective date:
 - Fee caps apply as from effective date.
 - Governance requirements become applicable immediately.
 - Operational requirements within 24 months.
- All PDAS agreements will be viewed as a new service and have to comply as from the effective date.

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Questions?

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