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INSURANCE REGULATORY FRAMEWORK UPDATE

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Insurance Regulatory Seminar
2 November 2015 / 5 November 2015



Agenda

- **Legislative reforms**
 - Primary Legislation
 - Subordinate Legislation
- **Specific regulatory interventions**
- **Broader regulatory projects**



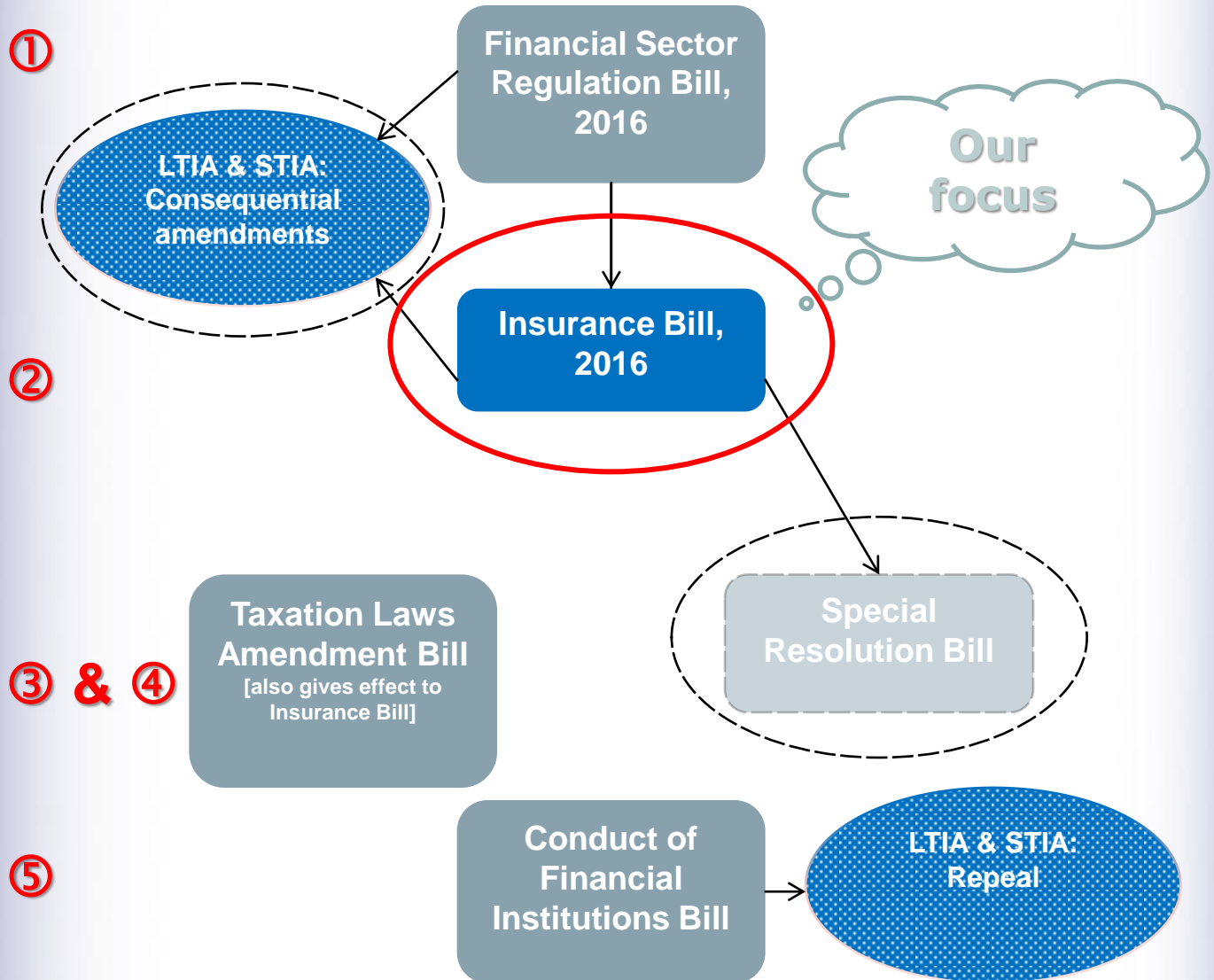
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LEGISLATIVE REFORMS



Current primary legislation reforms





Current subordinate legislation reforms

Giving effect to the Insurance Bill

1. Prudential Standards
2. Microinsurance Product Standards
3. Alignment of LTIA & STIA remaining conduct framework with Bill
4. FAIS Code of Conduct
5. Demarcation regs

Conduct of Business

1. Binder Regulations
2. CCI
3. Complaints management
4. RDR Phase 1



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PRIMARY LEGISLATIVE REFORMS



Insurance Bill

- **Where we are:**
 - Bill approved by Cabinet & published for comment on 17 April 2015
 - Industry engagement: Various workshops on Bill & response to comments made available
 - Bill in Cabinet for approval to table in Parliament in November 2015
 - Envisaged commencement date: 2nd half of 2016



Insurance Bill

- **How did we get here:**
 - Has been developed in continuous consultation with industry (SAM Steering Committee & Sub-committees and Working Groups)
 - Since 2009 more than 117 discussion documents & position papers published on various components of the framework
 - 3 Quantitative Impact Studies (QISs) to test Pillar I proposals
 - A Pillar II readiness review plus a follow-up study
 - An Economic Impact Study
 - A Reinsurance Regulatory Review
 - Comprehensive Parallel Run
 - A Socio Economic Impact Study done in consultation with & in accordance with guidance by Presidency



Insurance Bill

- **Overview:**

- Bill has a “prudential” focus (insurance “conduct of business” provisions will in interim be dealt with through LTIA & STIA and finally in CoFI Bill)
- Consolidates long-term (life) and short-term (non-life) prudential regulatory framework
- Proportional
- Framework legislation - technical requirements in subordinate legislation
- Complements broader financial sector reforms
- Repeals prudential sections of the LTIA & STIA pending CoFi Bill



Insurance Bill

- **Policy objectives:**

- Enhancing access to insurance through the introduction of a microinsurance regulatory framework
- Enhancing financial soundness of insurers, financial stability and the protection of policyholders through –
 - introducing a new Solvency Assessment and Management (SAM) regime
 - introducing a framework for insurance group supervision
 - enhancing the reinsurance regulatory framework
- Aligning with international standards



Insurance Bill

■ Contents:

- Chapter 1: Interpretation & objective of Bill
- Chapter 2: Overarching framework for conducting insurance business & insurance group business
- Chapter 3: Key persons & significant owners
- Chapter 4: Licensing
- Chapter 5: Governance (also branches & Lloyd's)
- Chapter 6: Financial soundness (also branches & Lloyd's)
- Chapter 7: Reporting & public disclosure requirements
- Chapter 8 Transfer of business & significant transactions
- Chapter 9: Resolution ☆
- Chapter 10: Administration of the Bill
- Chapter 11: General provisions
- Schedule 1: Laws amended
- Schedule 2: Classes & sub-classes
- Schedule 3: Transitional arrangements



Insurance Bill

- **Significant amendments post April 2015 comments:**
 - *Definitions:* Amendment of the definition of –
 - Policyholder, personal lines, beneficiary, life insurance policy, non-life insurance policy & controlling company (removal of public company and non-operating requirements)
 - *Common law:* Removal of provision relating to intended codification of the definition of insurance
 - *Linked insurers:*
 - Removal of the dedicated licence requirement
 - Removal of the limitations on linked business (reinsurance of linked benefits)
 - Allowing linked insurance and other life insurance to be written in from the same licence
 - *Cell captive insurers:* Allowing cells to write inwards reinsurance business (as long as it is not from other insurers licensed in SA)



Insurance Bill

- **Significant amendments post April 2015 comments:**
 - *Reinsurers:* Allowing composite licences for professional reinsurers
 - *Lloyd's and branches of foreign reinsurers:* Refinement of the application of governance, security and reporting obligations
 - *Insurance groups:* Providing for the licensing of a controlling company
 - *Failure to maintain financial soundness:* Clarifications added on implications for not meeting financial soundness requirements
 - *Resolution:* Removal of preferred claims of policyholder in winding up of insurer & providing for winding up of trusts of Lloyd's and branches of foreign reinsurers
 - *Equivalence of foreign jurisdictions:* Addition of section relating to determination of whether other jurisdictions are equivalent



Insurance Bill

- **Significant amendments post April 2015 comments:**
 - *Special dispensation for certain insurers not to be public company*
 - *Accident and Health class of non-life insurance business: Allowing death & disability benefits to be underwritten in respect of accidents*
 - *Classes / sub-classes: Changes / clarifications to the authorisation classes in Schedule 2*
 - *Powers and functions of Registrar (now PA): Aligned with FSR Bill*
 - *Transitional provisions: Extension of provisions, including the addition of explicit transitional arrangements for financial soundness*
 - *General alignment with FSR Bill*



Insurance Bill

- **Significant implications for current insurance business:**
 - *Segmentation & relicensing*
 - Group v individual policies (underwritten on a group basis)
 - Life, disability and death events
 - Fund member policies
 - 2 year progressive relicensing
 - Transitional matters [Detailed discussion at SAM workshop]
 - *Reinsurance* [Detailed discussion at SAM workshop]
 - Branches
 - Treatment of reinsurance for solvency purposes
 - Reinsurance by primary insurers
 - Fronting



Insurance Bill

- **Significant implications for current insurance business:**
 - *Cell structures* [Position Paper to be released end-2015 / Jan-2016]
 - Dedicated licence
 - No 1st & 3rd party business in the same cell
 - Limitations on who may own a cell: Still under consideration whether to allow any type of intermediary to own a cell
 - Clear responsibilities of insurer: governance, risk management & financial soundness
 - No reinsurance of risks associated with the insurance obligations of another insurer licensed in South Africa or associated with business originating in South Africa
 - Final conduct regulatory policy proposals still under consideration – pending RDR



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SUBORDINATE LEGISLATION REFORMS




Giving effect to the Insurance Bill


Prudential Standards

- **General Standards (G)**
 - GS 1: Microinsurance business thresholds
 - GS 2: Insurance business excluded from or included in the application of Bill
 - GS 3: Registration of shares in name of nominee
 - etc....
- **Fit & Proper Standards (FP)** Replaces BN 158 of 2015
 - FP 1: Fit & Proper framework
 - FP 2: Directors, senior managers, heads of a control functions and auditors
 - FP 3: Trustees of trusts of Lloyd's or a branch of a foreign reinsurer
 - FP 4: Significant owners

 New format

 Objectives and Key Requirements stated upfront

 Public consultation: March /April 2016

 Effective: July – Dec 2016



Giving effect to the Insurance Bill

Prudential Standards

- **Governance Standards (GS)** Replaces BN 158 of 2014 & Outsourcing Directive
 - GRI: Insurer
 - GRM: Microinsurer
 - GRG: Insurance group
 - GRL: Lloyd's
 - GRB: Branch of a foreign reinsurer
- **Auditing Standards (A)** Detailed discussion at SAM workshop
 - A1: Auditing requirements
 - A2: Duties and functions of auditor
- **Financial Soundness Standards (FS)**
 - Same split as for Governance Standards
- **Reporting Standards (R)**
 - Same split as for Governance Standards



Giving effect to the Insurance Bill

Regulatory framework under STIA & LTIA

Also FAIS Code alignment with microinsurance framework

Regulations

PPRs

Board Notices

Directives

Information Letters

① Microinsurance Product Standards **Detailed discussion later today**

② Alignment with segmentation

③ Assistance business group schemes

④ Removal of prudential matters

⑤ Demarcation Regulations

⌚ Consultation: March /April 2016

⌚ Effective: July – Dec 2016



Conduct of business reforms

Regulatory framework under STIA & LTIA

Regulations

PPRs

Board Notices

Directives

Information Letters

① Binder Regulations (2014)

② CCI

③ Complaints Management

④ RDR Phase 1 Detailed discussion later today

🕒 Consultation: March /April 2016

🕒 Effective: July – Dec 2016



Demarcation

- 2nd draft Regulations published 29 April 2014 for comment by 31 July 2014 & FAQ released early July 2014
 - Allowance for medical expense shortfall cover (gap cover) & lump sum or income replacement policy benefits payable on a health event (hospital cash plans), subject to specific parameters
 - Alignment of commission (sliding scale)
- Significant policy considerations inherent in regulations
- Significant engagement with industry associations
- Final draft Regulations submitted by MoF to MoH (concurrence required)
- Final Regulations: Envisaged effective date of Jan 2016 (transitional provisions provided)
- Will be re-made under the Insurance Bill (to align with new segmentation)



Binder Regulations

- Published in July 2014 for comment by 1 September 2014
- Addresses emerging undesirable practices & regulatory gaps identified post implementation of regulations in 2012
- Amendments
 - Extend scope of prohibited business relationships
 - Clarify what constitutes incidental activities & requires that these are provided for in agreement
 - ST: Exclude SASRIA from regulations
 - Prevent creative structures to circumvent limitation on UMA's marketing & selling
 - Authorises Registrar to prescribe fees for binder functions
 - Clarify application to cell arrangements
 - Relaxes circumstances under which exemption may be provided to provide for mitigation of conflict of interest
- Finalisation deferred to align with RDR proposals
- Will be further amended to give effect to RDR Phase 1 proposals



Consumer Credit Insurance

- Technical Report on the Consumer Credit Insurance Market, July 2014
- Number of workshops and bilateral discussions to engage industry on the policy proposals, and discussions with the NCR and the dti have been ongoing, including on proposed premium caps
- Further technical work undertaken
- A road map will be released which sets out how the proposals will be implemented



Complaints management

- Discussion Document on Customer Complaint Management by regulated financial institutions, aligned to the TCF framework, October 2014
 - Industry reference group established under Market Conduct Regulatory Framework Steering Committee
- Complaints Management Thematic Review, 17 October 2014



RDR

- Published in Nov 2014 for comment by April 2015
- Numerous engagements with industry associations and other stakeholders to understand their feedback and to assess impact of proposals
- 2015 focus:
 - draft Phase 1 interventions
 - Roadmap of Phase 2 and Phase 3 interventions

Detailed discussion later today



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SPECIFIC REGULATORY INTERVENTIONS



Draft BN: Undesirable business practice - premiums

- Intended declaration of practice whereby insurers charge policyholders a fee in addition to premium (“insurer fee”), as undesirable practice
- Published on 25 April 2014 for comments by 30 June 2014
- Reasons
 - Not consistent with traditional insurance business practices
 - Not consistent with LTIA & STIA - premiums must include all costs incurred by an insurer in conducting insurance business
 - Significant risk that a true reflection of price of insurance cover not presented to consumers
 - Unfair competitive advantage
 - Causes premiums to be understated – which in turn distorts a number of key indicators and prudential regulatory requirements
 - Distorts commission and fees (such as binder fees) that are based on a percentage of premiums
 - Impedes effective supervision (comparability)
- Comments & final position under consideration - Significant policy considerations



Information Letter: Advertisements, brochures or similar communications

- Published on 13 December 2013 for comments by 28 February 2014
- Insurer responsible for persons acting on its behalf or of whom it is aware / ought to be aware
- Rules *versus* principles based
- Aligned with FAIS & CISCA
- Comments under consideration
- Engagements with various stakeholders
- To be issued by 1st quarter of 2016



IL: Transfer, cancellation & replacement of policies

- Clarity on the requirements that apply in respect of the cancellation of policies by insurers (or UM) or intermediaries
 - including the cancellation of policies pursuant to the cancellation of a binder agreement
- clarity on the application of section 37(1) of the LTIA & section 36(1) of the STIA where policies are “transferred” but no corresponding assets & liabilities are transferred
- direct all insurers to furnish information prior to the cancellation of –
 - policies resulting from the cancellation of a binder; or
 - a book of policies, or part thereof



IL: Transfer, cancellation & replacement of policies

- “book of policies” means –
 - the total number of policies forming part of a product line placed by an intermediary with a specific insurer
 - a group policy written as a life policy or an assistance business group scheme
- “cancellation” includes –
 - the termination of a policy;
 - the non-renewal of a policy where the policy contract provides for the automatic renewal of that policy
 - the transfer of policy from one insurer to another insurer where the transfer is not accompanied by the transfer of assets and liabilities relating to that policy
- No “negative consent”
- To be published for comments by end-2015
- To be issued in 1st quarter of 2016



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BROADER REGULATORY PROJECTS



Resolution Planning

- NT, SARB & FSB published discussion document *Strengthening South Africa's Resolution Framework for Financial Institutions* on 13 August 2015 for comments by 30 September 2015
- Phase 1: Designated Resolution Institutions (will include some systemically-important insurers)
- Phase 2: Policyholder Protection Scheme & policyholder creditor preference
- Building on Financial Stability Board's *Key Attributes of Effective Resolution Regimes for Financial Institutions* (Oct 2011)
- IAIS reviewing ICPs relating to resolution



Other market conduct initiatives

- Market Conduct Policy Framework for the Financial Services Sector
 - NT, FSB & industry associations to identify priority market conduct projects

- Market Conduct Regulatory Framework Steering Committee (former TCF SC):
 - stakeholder consultation forum between FSB (as regulator), NT (as policy maker) and stakeholders
 - deliberate and comment on development & implementation of a market conduct legislative and regulatory framework pending and post FSR Bill & establishment of FSCA
 - Specific focus areas:
 - Key information documents (KIDs)
 - Complaints management
 - RDR
 - FAIS competency model



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Questions?