



ASSOCIATED COMPLIANCE

FOR A COMMON PURPOSE

Special Newsletter



Introductory comment

It seems that as we get closer to the end of every year, more regulatory communications appear on our computer screens.

This last month we have received;

1. An update on the RDR;
2. A promise by the FSB that we will receive their ‘thematic review’ on the Binders before the end of the year; and
3. A paper on the proposed credit life insurance Regulations for comment by the industry.

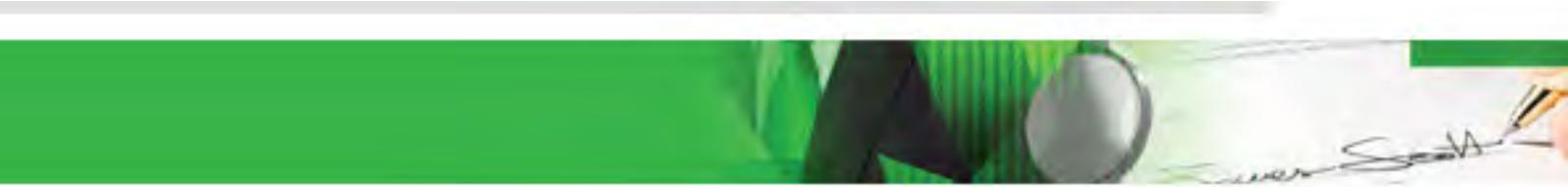
Interestingly, although the proposals regarding credit life insurance regulations will have a major impact on the industry, the Regulator has only provided 30 days to receive comments, which must be lodged prior to 13 December.

Update on RDR Proposals

We have been waiting for these for some time, and the speculation around the industry has been rife. Although there is still time for consultation, we now know the FSB’s thinking and industry practitioners can properly ‘model’ their businesses.

The first thing that we noticed is that when the RDR was published in November last year, it was clearly documented as a review of the current insurance distribution model adopted by our industry. This year there is a bold heading across the top, labelling it as a ‘Treating Customers Fairly’ document. This supports our view, as published in our last month’s newsletter that TCF is here, now, alive and thriving so a quick look at that article is highly recommended.

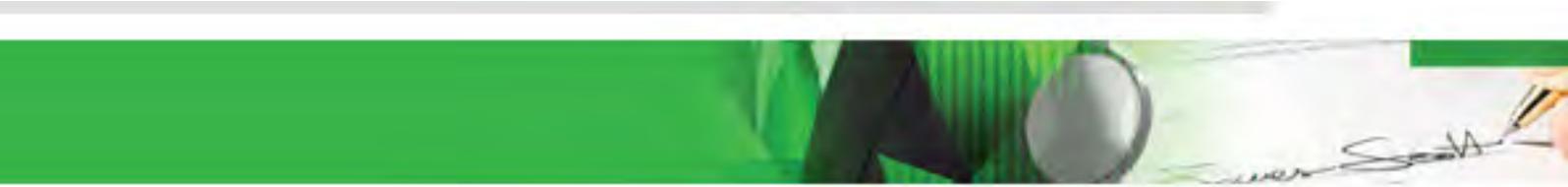
The new RDR document is a ‘must read’ for all practitioners and if you have not yet read it, [click here](#). This is supported by the Regulatory presentation held by the FSB the previous week – [click here](#) to download this.



In effect, the FSB is, inter alia, making the following proposals. However, we do reiterate that this is just a summary and full details, with explanations are included in the FSB's document:

1. The three types of adviser will be changed to two, these being insurer agents (on the insurer license) and advisors that work with more than one insurer as a regular feature of their business;
2. Insurer agents can only work for one insurer unless that insurer is not licensed to sell certain products, in which case the insurer agent will be able to sell those products supplied by another insurer;
3. Representatives will only be allowed to operate on one license unless the representatives can provide a good motivation;
4. Companies that have more than one license will be asked to lapse their additional licenses;
5. Key individuals that work on more than one license will be evaluated to ensure that they are not acting as a 'Rent-a-KI';
6. The types of activities currently outsourced to intermediaries in return for a fee will be reviewed, as will the fees payable;
7. An NMI with an 'enter into' binder will no longer be able to earn an additional outsourcing fee;
8. An NMI with a 'claims settling binder' will be allowed an additional outsourcing fee for non-claims administration subject to providing proof that the outsourcing is in the interests of the policyholder;
9. Additional due diligence requirements will be imposed on insurers that outsource functions;
10. Outsourcing fees will be capped – the current proposal being 2% of GWP;
11. Outsourcing fees will not be payable for services such as:
 - Policy issuing (see point 29 below)
 - Research on products;
 - Marketing and customers;
 - Vehicle inspections;
 - Vehicle micro-dotting; and
 - Functions governed by other legislation (i.e. FIC)

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12. Additional responsibilities will be imposed on binder holders to ensure that all policyholder information in the possession of binder-holders is communicated to insurers;
 13. Insurers will be given additional responsibilities to ensure that their TCF framework is appropriate for their policyholders;
 14. Insurers will not be able to refuse to provide information to certain parties if requested to do so by a policyholder;
 15. Commissions on replacement policies in the long term sector will be allowed in the interim, but additional replacement monitoring obligations will be placed on insurers and additional conditions relating to advice records will be imposed on brokers;
 16. The 'Conduct of Business' statutory returns currently provided by insurers will be revised to include more information on replacement policies;
 17. The current annual compliance report by compliance officers will be replaced with a 'Conduct of Business Return';
 18. Additional measures will be imposed in terms of disclosure obligations regarding the transfer from one retirement annuity to another;
 19. Methods of control will be implemented to ensure 'equivalence of reward' between insurer agents and independent brokers;
 20. Short term commission caps will be lower than is presently the case to enable advisers to charge the policyholder for advice-giving services;
 21. There is likely to be higher levels of commission for brokers that provide ongoing services as well as point-of-sale services;
 22. The STIA s8(5) fee will no longer be allowed, howsoever it is labelled;
 23. When a broker wishes to transfer a policyholder from one insurer to another, explicit consent (as opposed to tacit, assumed or negative consent) must be obtained from the policyholder. This includes 'books' of business.
 24. Regulations regarding cancellation by insurers will demand that insurers remain on risk for a period of 30 days AFTER the insurer has received proof that the policyholder is aware that the policy is cancelled or until the insurer has received proof that another insurer is on risk;
 25. Binder fees for NMIs will be capped, probably at 2%, for 'enter into, vary or renew' binders;

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26. The determination of wordings, premiums and policy benefits are likely to be removed from Binders held by NMIs;
 27. Binders relating to commercial lines business may be disallowed for NMIs;
 28. Commission on credit life group schemes will be capped at 7,5%; and
 29. Outsourcing fees will no longer be allowed for the issuing of policies.
 30. Not all of these proposals, if adopted, can be implemented at the same time, and at the end of the FSB's publication a summary of the intended timelines for implementation has been included.

Credit Life Insurance Regulation Proposals

In a nutshell, these proposals relate directly to what must be included in the cover, what can be excluded, the maximum cost and the disclosures that have to be made at the point of sale.

We deal with each one in turn:

The cover that must be included

In the event of the consumer's death or permanent disability, the outstanding balance of the consumer's total obligations under the credit agreement must be covered.

The policy must also cover temporary disability which provides all the consumer's obligations that become due and payable for a period of 12 months or until the consumer is no longer disabled, whichever is the shorter. As a voluntary extension requested by the consumer, the insurer will be entitled to extend the payment for the entire duration of the loan agreement.

Cover must also be included in the event that the consumer becomes unemployed or unable to earn an income for a period of 6 months or until the consumer finds employment or is able to earn an income, whichever is the shorter period.

Where a consumer is not employed on the date that the credit agreement is entered into,



no cost relating to the risk of becoming unemployed or being unable to earn an income may be included in the cost of the credit life insurance.

Any waiting period for unemployment must not exceed 3 months.

Acceptable exclusions

The normal exclusions that apply to death and disability such as suicide, acts of war and participating in criminal activities or hazardous pastimes are, of course, acceptable.

However, there are required changes to the usual pre-existing conditions exclusion to the extent that only where the pre-existing condition affected the consumer within the previous 12 months can the insurer apply that condition, even if there was non-disclosure.

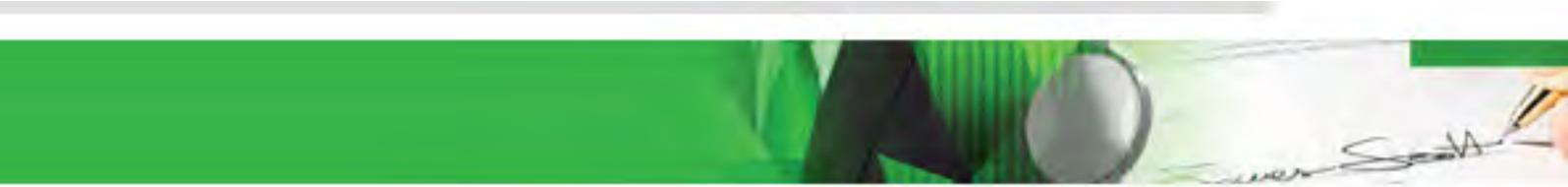
The exclusions that may apply to unemployment are standard, except that the exclusion relating to retrenchment of which the consumer was aware or received notice of prior to effecting the policy must be limited to 3 months.

The maximum cost

The maximum cost prescribed will be R2 per R1 000 of the deferred amount (excluding the cost of credit) for mortgage agreements and R4.50 per R1 000 of the deferred amount (excluding the cost of credit) in respect of Credit facilities and unsecured and short-term credit transactions.

Disclosures

The exceptions and limitations must be explained to the consumer on the date that the credit agreement is entered into and at regular intervals thereafter. In addition, the cost of credit life insurance must be disclosed to the consumer in the format set out in a special form issued by the National Credit Regulator.



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