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Insurance Act, 2016

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Introduction and overview

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Introduction and overview

Insurance industry's most confusing time in its history

- Because:
  - Financial Sector Regulation Act will be enacted with major changes to the Insurance Acts but you don't know when its provisions (including repeals) come into effect (s 295)
  - Insurance Act 2016 comes into operation in stages by proclamation but Prudential Authority can delay the implementation of selected provisions for up to two years (s 72)
  - The "Authority" is sometimes the Prudential Authority, sometimes the Financial Sector Conduct Authority, sometimes both – no more Registrar (schedule 4)
  - The Insurance Bill and Financial Sector Regulation Bill are yet to be promulgated but we have referred to them as Acts here for convenience

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Introduction and overview

- Prudential standards and determinations by each or both Authorities
- Definitions and provisions in the FSRA apply to the Insurance Acts.
- You have insurance laws in four Acts
- You don't get regulations from the Minister, you get prudential standards from authorities
- Prudential Authority deals with financial soundness and protecting customers against insurers failing to meet their obligations including deciding who gets what licence, and eg outsourcing

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Introduction and overview

- Conduct Authority promotes fair treatment of customers
- Insurance Act 2016 refers to the Prudential Authority but that, for up to two years, will be the Conduct Authority
- Insurance Act has to be read together with the pruned-down LTIA and STIA
- We are told there is going to be dedicated overarching Conduct of Business/Market Conduct legislation in early 2018
- You have to look at four primary insurance acts and SAM relating to insurance plus the FAIS Act and who-knows-where-it-is RDR

Insurance Act 2016

- The Insurance Act 2016:
  - Replaces the FSRA’s replaced definitions in STIA/LTIA
  - Repeals all the sections relating to financial soundness, governance and reporting
  - Repeals other sections “insofar as it relates to the prudential supervision of insurance business”
  - Conduct Authority initially “supervises the conduct of business” under the STIA/LTIA then hands over to Prudential Authority
  - Sections regarding key persons and significant owners are now in all three Acts regulated by the Authority

The whole insurance group is now regulated

- The PA can tell holding/controlling companies how to run their businesses and even to restructure their businesses.
- Intergroup financing and integrated governance is now under the PA
- Significant owners, key persons and auditors and major outsource will come under the authority of the PA
- The pooling and diversification of risk within insurance groups therefore has consequences but without a significant owner you may not get a licence
- Offshore reinsurance requires a foreign branch of an insurer with a trust account. This will limit capacity because not every foreign reinsurer will be interested especially at exchange rates

Some limits

- Today's talks will:
  - Not deal to any great extent with financial soundness
  - Not deal much with Lloyd's
  - Deal mainly with the STIA

Setting the scene – the Acts and the Prudential Authority

Christine Rodrigues

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Setting the scene

- The Insurance Act, 2016 will replace all the prudential sections in the current LTIA and STIA

- Before the Insurance Act can be promulgated the Financial Sector Regulation Act (**FSRA**) must be promulgated

- Purpose of the FSRA
  - Dubbed Twin Peaks regulation
  - Establishes the Prudential Authority (**PA**) and Financial Sector Conduct Authority (**FSCA**)

- Who will be the FSCA?
  - "FSB" / Registrar

- Who will be the PA?
  - South African Reserve Bank

Setting the scene

- Some powers and functions of the PA – responsible for protecting and enhancing financial stability of life and non-life industry
  - Will do so within a policy framework that will be agreed between the Minister of Finance and the Governor of SARB – see s283(3) of the FSRA
  - It will monitor risks of the financial system
  - Manage systemic events (external event outside SA that could reasonably have an adverse effect on the financial system)
  - Co-operate with the FSCA
- It is expected that the FSCA and the PA must co-operate and collaborate when performing their functions
- Initially only the FSCA for STIA and LTIA

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Setting the scene

- They must assist and support each other to pursue their objectives in terms of the LTIA and STIA
- They must inform each other about such information about matters of common interest
- Strive to adopt consistent regulatory strategies
- Minimise duplication of effort and expenses
- But who do you go to?

Setting the scene

- Some powers and functions of the PA
  - Will be able to conduct on-site inspections and investigations
  - Can gather any relevant required information/document from a supervised entity
  - Enforcement by:
    - Guidance notes (for information purposes only)
    - Issue binding interpretation for a specific sectoral law
    - Issue directives
- These are consistent with what is contained in the Insurance Act
- Same powers and functions of the PA under the Insurance Act
  - To prescribe prudential standards

Main changes that affect your business

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Main changes affecting your business

- For reasons given in introduction we can’t say when
- And we can’t say exactly what
- Or exactly who may regulate

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Remains of STIA/LTIA

- The following remains in the STIA (LTIA similar where relevant)
  - The Registrar which will now be the Conduct Authority and later the Prudential Authority (s4 – Also FSRA s 42)
  - Onsite visits (s 4(8) – Also in FSRA s 139 and new s 1A (Schedule 4))
  - Intermediary can't act for unregistered insurer without approval (s 8(2))
  - Non-use of "funeral" or "burial" (s 8(6))
  - Returns to Registrar (s 35(1) – Now FSRA)

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Remains of STIA/LTIA

- Also remaining are business practices, policies and policyholder protection:
  - Free choice (s 43)
  - Inducements (s 44)
  - Collection of premiums by intermediaries (s 45)
  - Receipt for cash premiums (s 46)
  - Copy of policy to policyholders (s 47)
  - Independent intermediary remuneration (s 48)
  - Binder agreements (s 48A)
  - Limitation of policy benefits for minors (s 50)
  - Void: Insurers attempted exemption from liability for agents; policyholder responsible for insurers agent; pay-as-paid in personal lines; or waiver of statutory rights (s 51)

Remains of STIA/LTIA

- Policies entered into by minors (s 52)
- Misrepresentation and non-disclosure (s 53)
- Validity of contravening insurance contracts (s 54)
- Policyholder protection (s 55)
- Certain Lloyd's provisions regarding returns and premium collection (ss 58 and 63(1))
- Offences and penalties (ss 64 to 66)
- Some regulations now in FSRA
- All this will be included in the Market Conduct Act from 2018 (or later?)

Importations into STIA/LTIA

- The following have been imported into the STIA:
  - New definitions in the FSRA of the “Authority”, conduct standards, prudential standards, the register and the Tribunal and all relevant FSRA definitions. These will later be replaced by the definitions in the Insurance Act
  - Some sections of the Insurance Act will be incorporated into the STIA relating to prudential supervision
  - The provisions regarding key persons and significant owners and issuing, varying and suspending licences are incorporated
  - Making the Conduct Authority the regulatory body for the STIA

LTIA is similar

Regulatory powers

- There are considerable regulatory powers given to the Authority
  - The Authority may issue non-binding guidance notes on the application of a law (s 140)
  - The Authority may issue a binding interpretation binding until the law falls away or the court sets it aside thus allowing them virtually to make law (s 141)
  - The Prudential Authority can issue directives to an insurer and take action if it:
    - Conducts its business in an improper or unsound way likely to affect its ability to meet obligations
    - Contravenes any law
    - Is involved in a financial crime
    - Or is contributing to financial instability (with permission of the Reserve Bank)
  - Directives may also be issued to a holding company in South Africa. Even regarding specific financial products, paying a dividend or doing specific transactions.

Regulatory powers

- The Authority may issue directives:
  - To the insurer:
  - To a holding company
  - To a key person (which includes a person performing an outsourced control function)
  - To a FAIS representative of the insurer
  - Or to an outsource contractor

  directing them to take specific action or to remove a key person.

- The directive must be preceded by consultation.
- The Authority can enter into an enforceable written undertaking offered by any person regarding their future conduct. If you give such a written undertaking it will be binding, enforceable by a court and equal to a civil judgment (s 150)
- The Authority can declare specific conduct to be unfair business (s 106(3))
- The Authority can determine fees (s 235)
- The Authority can issue standards

Standards

- Standards are prudential standards, conduct standards and joint standards by each or both Authorities

- Standards and determinations require:
  - A draft to be issued
  - A statement about the need for and operation of the standard
  - A statement of expected impact
  - A notice inviting submissions for at least two months (s 97)
  - Authority "must" take into account all submissions (s 97(5))
    - Urgent standards and determinations may not require prior notice if there is potential prejudice to customers or harm to the financial system but the notice procedure must still be followed after issuing standard or determination with an explanation of the urgency

Challenging standards

- These standards except for guidelines are all administrative action
- Administrative action can be taken on review to the high court under PAJA (s 91)

Records of standards

- All regulatory action is put in the register. This relates to all financial sector laws and includes all the above plus regulations, administrative procedures, licences and variations, ombud rules, exemptions and a number of other documents

- Everything will be on the official website – let's hope it's searchable

- Note, for contraventions, a board member or key person can be liable for an offence unless the board member can show that they took all reasonable steps to prevent the commission of the offence

- Anyone suffering loss can sue the company and any person who was knowingly involved in the contravention

Life and non-life

- Life insurance insures a life event (life beginning, continuing or continuing for a period), a health event, disability event or death event or undertaking to pay an amount at fixed dates or on request of the policyholder (excludes bank deposits and participatory interest in collective investment schemes)

- Non-life insures a health event, a disability event or death event if accidental. Non-life can indemnify the loss on the happening of an "unplanned or uncertain event"

- An "unplanned event" could be wear and tear or other things traditionally not insured

- An accident is an "external, violent, accidental and visible event" which will give rise to all sorts of arguments

Outsourcing

- Despite outsourcing the insurer remains responsible and the outsource contractor is not regarded as conducting insurance business

- Outsourcing is an arrangement in any form between the insurer or controlling company and another person included related persons here or overseas and another insurer performing activities such as pricing or actuarial services

- Outsourcing excludes financial services under FAIS other than binder functions (s 1)

- According to the FSRA outsourcing must be “for the provision of a specified service related to the provision by the insurer of a financial product” (a policy) (s 2) or a financial service including a FAIS service provided to an insurer

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Outsourcing

- Outsourcing arrangements can be limited in the licence
- The Authority may prescribe governance principles and requirements for outsourcing taking into account specific issues in s 30(e)
- There is nothing to preserve the previous outsourcing directive 159 under the new laws
- The law regarding fit and proper requirements for key persons includes outsourced functions to an independent head of a control function (risk management, compliance, internal audit and actuarial functions)

Fit and proper

- Fit and proper applies to holding companies, insurance companies, key persons who are head of a control function, directors, managing executives, direct or indirect owners of an insurer and a significant owner
- Fit and proper includes honesty, integrity, competence, experience, qualifications, knowledge and financial standing

Various terms

- A policyholder is the person to whom you sell the policy. The objects of the Act are to enhance protection of policyholders (which will include beneficiaries). A beneficiary is no longer defined except in Schedule 2
- Reinsurance business is to insure the risks of another insurer. That cuts out the old debate whether it is a separate policy insuring the underlying risks
- "Rider benefit" is an additional insurance obligation ancillary to the primary obligation and can be permitted in the licence
- Any documents may be in electronic form if it can be conveniently printed by the recipient at a reasonable time and cost (s 2(7))

Insurance business

- "Insurance business" is providing "insurance obligations", namely to pay money, render services or meet any other obligation under a policy "including guarantees"
- Insurers can't conduct any other business without approval except "operations arising directly from" insurance business and ancillary business (s 22(1)(b))
- The Authority can issue a standard that "certain types, kinds or categories of business constitute insurance business to which this Act applies". That is an impermissible delegation. It will no doubt be challenged when something is brought within the fold that shouldn't be insurance

Authorities, etc exempt from liability

Under s 275 the Authority and everyone else in government have no liability for any decision taken or action performed in good faith even if they tell you how to run your business and it therefore fails

Licensing requirements and transfers

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Licensing requirements and transfers

- Limitations to current insurers
  - An insurer will not be able to conduct any other business other than insurance business and ancillary in South Africa without the approval of the PA
  - An insurer (other than a branch of a foreign reinsurer) may not without the approval of the PA conduct business similar to insurance business outside South Africa
  - The PA can direct the insurer to stop the above activities if it reasonably believes that it is or it is likely that the financial stability of the insurer will be impeded, or that risks are introduced that cannot be appropriately mitigated
- The PA may prescribe what kinds or categories of insurance business are excluded from the Insurance Act [s5(8)(a) of the Insurance Act]

Licensing requirements and transfers

- Foreign reinsurers
  - Institution that is authorised and supervised by a regulatory authority to perform reinsurance business outside South Africa
  - May now conduct business via a branch but must be granted a licence to conduct insurance business in South Africa
  - Will need to establish a trust
    - Trust to be established in terms of prescribed requirements
    - Provide and maintain security in South Africa in the form of assets valued in accordance with prescribed requirements which must be at least equal to the technical provisions for the insurance business
    - Security cannot be accessed by the foreign reinsurer without the PA's authority
    - PA to prescribe requirements relating to roles and responsibilities of trustees, representative branch
  - All sections of the FSRA will apply to a branch of a foreign reinsurer and Lloyd's unless excluded

Licensing requirements and transfers

- Insurance Groups
  - Does not apply to branches of foreign reinsurers
  - Group designated as such by the PA
  - The holding company or another juristic person that controls and insurance group and which is located in South Africa must within 30 days of designation apply to be licensed as such [s10(2) of the Insurance Act]
  - PA to monitor and may revoke or amend designations of the group
  - Board of the controlling company is responsible for meeting the requirements of the controlling company and they must as soon as reasonably possible notify the PA of any change in the structure
  - PA can direct the controlling company to amend its structure so that the structure is more transparent
  - Where the structure is being restructured the PA may restrict or prohibit certain activities or transactions of the insurance group until the restructuring plan is implemented

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Licensing requirements and transfers

- Key persons and significant owners
  - PA to prescribe fit an proper requirements for key persons. Key persons are:
    - Directors
    - Senior manager
    - Head of control function
    - Auditor
    - Trustee of trust (foreign reinsurer)
    - Representative and deputy representative of Lloyd's or a branch of foreign reinsurer

    - Significant owners (FSRA) - person who directly or indirectly has the ability to influence or control materially the business or strategy of the insurer.

    - Cannot appoint key persons unless approved by the PA

  - Must notify the PA within 30 days of the appointment of a senior manager, head of control, representative of a branch of a foreign reinsurer or Lloyd's

Licensing requirements and transfers

- Key persons and significant owners

  - Insurer or a controlling company must within 30 days become aware of circumstances that affect fit and proper must notify PA

  - An insurer (other than Lloyd's or branch of foreign reinsurer) and controlling company to notify PA of termination of key person within 30 days of termination

  - Foreign branch of reinsurer Lloyd's do not have to if director, representative or deputy representative

  - Key persons other than auditor- statutory whistleblowing provision

  - Auditor that resigns (insurer/controlling company) to submit to the PA written statement of reasons

Licensing requirements and transfers

- Change in control
  - Does not apply to branches of foreign reinsurers and Lloyd's
  - Need to read in conjunction with FSRA
  - Threshold is 15%
  - PA to approve arrangement referred to in the FSRA. PA to be satisfied:
    - Significant owner meets fit & proper requirements
    - Compliance with governance framework requirements, financial requirements and public disclosures
  - PA can after consultation with insurer or controlling company request that the shareholding of a significant owner be reduced if a particular significant owner will be prejudicial to the insurer or to policyholders

Licensing requirements and transfers

- Types of licences
  - Micro insurance business only- profit/non-profit company/ co-operative
  - Reinsurance- reinsurance only- branch or public company
  - Life/Non-life- public company or SOC
  - Application is made to the PA
  - Lloyd's

  - Licence has certain specifications:
    - Conditions licence granted
    - Type of insurance for which the insurer is licenced

  - Licence (controlling company) must also have contain specific licence conditions eg may require it to limit business to the acquiring, holding and managing of another company or companies

  - Separate licences for life an non-life insurers

  - Reinsurer and micro insurer can have a licence for both

Licensing requirements and transfers

- Types of licences
  - Captive insurer may not insure third party risks
  - Cell captive insurer can only conduct business through a cell structure
  - First party and third party cells cannot be in the same cell
  - Cell captive insurer cannot insure the risks associated with the obligations of another licensed insurer
  - Restrictions on a reinsurer that is licensed to conduct life and non-life may not conduct reinsurance in respect of classes 6 to 8 – Table I of Schedule 2 eg Individual Investment

Licensing requirements and transfers

- Types of licences
  - PA can impose licensing conditions for insurer and controlling company
  - PA may amend, delete, replace or vary any licence conditions
  - PA can suspend licence is insurer or controlling company
    - No longer meets requirements’
    - Fails to pay levies or fees
  - Date from when a licence is suspended the insurer may not underwrite new policies
  - Withdraw a licence

Licensing requirements and transfers

- Transfers, fundamental transaction or change of institutional form
  - PA approval required
  - PA to be satisfied that any of the above will not eg:
    - Impede financial soundness
    - Impact on interests of policyholders
  - PA may prescribe what is a material acquisition or disposal

- Curatorship
  - Application by the PA to court
  - With agreement with the insurer or controlling company
  - Curator's powers and functions are contained in the Insurance Act [s54] in addition to what a court would afford

Licensing requirements and transfers

- Business rescue
  - Companies Act, 2008
  - Commission = PA
  - PA to make application

- Winding up
  - Companies Act, 2008
  - With agreement with the insurer or controlling company

Offences

- Fine R10 million – Insurance Act

- Vicarious liability (members of the governing body, key individuals) [s266 of FSRA]

Governance and financial soundness

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Governance

- Governance frameworks must:
  - be proportionate to the nature, scale and complexity of the insurance business and the risks of the insurer;
  - include effective systems of corporate governance, risk management and internal controls; and
  - address, and provide for, the matters prescribed by the Prudential Authority.

- What standards relating to management structures can be prescribed by the PA?
  - the composition and governance of the board of directors;
  - the roles and responsibilities of the board of directors (in addition to those imposed by the Companies Act);
  - the duties of directors; and
  - the structure of the board.

- Standards relating to governance in general that may be prescribed by the PA:
  - principles and requirements relating to risk management, internal control systems and control functions
  - new requirements relating to outsourcing

- Additional reporting responsibilities for auditors of insurers
  - Reports on any matter which the auditor becomes aware of that may be contrary to:
    - the governance framework or maintenance of internal requirements; and
    - provisions of the Act applicable to significant owners of the insurer or controlling companies.

- Additional responsibilities for auditors of controlling companies
  - audit the financial soundness of the insurer; and
  - audit the security held in a trust.

- Aim of the new governance provisions
  - ensure that the implementation of a governance framework is not merely a tick box exercise;
  - ensure that each insurers and controlling companies are complying properly; and
  - adopt a more hands on approach by the supervisory body.

Financial Soundness

- Eligible own funds
  - Made up of:
    - items that may be called up to absorb losses (ancillary own funds); and
    - excess assets and subordinate liabilities (basic own funds).

- Purpose
    - inform the minimum capital requirement or solvency capital requirement (whichever is the greater)

- Standards to be prescribed in respect of eligible own funds
  - the tiering and classification of basic own funds and ancillary own funds;
  - the quantitative limits in respect of each tier;
  - adjustments that must be made to own fund items;
  - interests and transactions that must be disregarded; and
  - the criteria that ancillary own funds must comply with.

- Current legislation
  - Little or no direction on how or when calculations of MCRs or SCRs must be done to ensure that insurers remain financially sound.
  - only guidance comes from the SAM framework which indicates that there are two ways to calculate the solvency capital requirement (SCR):
    - Standard formula calculation - Set by the FSB; or the
    - Internal model - Developed by the insurer themselves with the assistance of auditors and other consultants and then approved by the Financial Services Board

- Insurance Act
  - Prudential authority will prescribe standards relating to:
    - the principles, methods and assumptions that must be used in the calculation, the valuation and calculation of technical provisions and the valuation of liabilities
    - calculation and calibration of the minimum capital requirement;
    - frequency at and the circumstances under which the minimum capital requirement and the solvency capital requirement must be calculated or estimated;
    - requirements for the use of a full or partial internal model to calculate the solvency capital requirement

Classes of insurance business

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Classes of business, mainly non-life Sch 2 Table 2

- You will remember non-life is indemnity business and is not non-accidental death or disability or life events

- Other important distinctions

  - Group insurance is insurance of an autonomous association formed for other purposes than insurance, or an employer or a fund (pension fund or medical scheme)
  - Individual business includes individual policies underwritten on a group basis with rating based on the characteristics of the group
  - A lump sum is a single stated sum of money
  - The beneficiary is the person stated in the policy or nominated by the policyholder as the beneficiary, or for group insurance a member of the association, or an employee, or their nominee. It doesn't necessarily mean a person named in the policy

Classes of business, non-life Schedule 2 Table 2

- Note that the following is only in life classes:
  - Credit life (to satisfy liability to a credit provider)
  - Funeral (widely "costs" associated with a funeral or rendering a service on death)
- Many of the classes are divided into personal lines (policyholder is a natural person acting otherwise than solely for the purposes of the person's own business) and commercial lines (the rest)
- All licences can be subject to rational conditions
- There are 41 sub-classes of business and if you want to qualify for licensing to conduct that business you will need to demonstrate adequate operational management capabilities to conduct the classes and sub-classes of insurance business (s 22(1)(c)(iii))

Classes of business, non-life Schedule 2 Table 2

- Motor
  - Include possession, use or ownership of motor vehicles “and other vehicles operating on land” (not railway rolling stock) and excludes warranty business
- Property
  - It is all property except specifically covered under motor, agriculture, engineering, marine, aviation, transport or rail insurance. Property can be movable, immovable, tangible, intangible or intellectual property
- Agriculture
  - This includes not only crop, forestry and livestock (including bloodstock, wildlife, birds and aquaculture) (what about the bees?) but also damage or loss to agricultural equipment or from other agricultural activities
- Engineering
  - Engineering is the same as before but adds “includes loss of revenue”, unnecessarily

Classes of business, non-life Schedule 2 Table 2

- Marine
  - Marine relates only to vessels on a river, canal, dam, lake or sea. It was not a separate class before
- Aviation
  - Aviation is also a new separate class relating to "aircraft or spacecraft"
- Rail
  - Rail relates to "railway rolling stock and related infrastructure"
- Transportation
  - Transportation is now for goods in transit (conveyance, storage, treatment or handling) irrespective of the form of transport

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Classes of business, non-life Schedule 2 Table 2

- Legal expenses insures legal expenses and cost of litigation (which are legal expenses)

- Liability
  - Liability to another person but divided up into:
    - Directors and officers; employer liability; product liability including product guarantee and product recall; professional indemnity; and public liability; personal and other

  - It also includes:
    - Aviation; engineering; marine; motor; rail; transport; personal and other as if they are separate sub-classes when those headings as classes of business would already cover liability as damage or loss resulting from the possession, use or ownership of vessels, aircraft, etc. It implies you have to get a separate licence from your motor licence to cover motor liabilities (which is absurd) or you can separately cover motor, etc liability (which is unusual)

  - It also covers “product guarantee” liability which relates to insuring liability to third parties and not ordinary product guarantee eg in a sale contract

Classes of business, non-life Schedule 2 Table 2

- Consumer credit insures not life or disability but loss relating to the goods bought in terms of a credit agreement and requires a lump sum payment. Non-life could of course pay an amount under an accident and health policy non-life business but not for non-accidental death or disability from illness

- Trade credit
  - Trade credit is, despite an elaborate definition, any trade credit

- Guarantee
  - Guarantee covers insolvency, failure to meet an obligation and suretyship as part of business activities other than a bank guarantee. In other words, normal guarantee insurance can continue. There is no equivalent of s 33 prohibiting encumbrances, suretyships or derivatives for instance. This will be dealt with under standards (s 36(6)(i))

Classes of business, non-life Schedule 2 Table 2

- Accident and health (divided into individual and group)
  - This covers costs or loss of income from death or disability caused by an accident; and a health event other than costs or services regulated under the Medical Schemes Act and includes policies specifically allowed by the Minister under future demarcation regulations.
  - Commercial lines and group cover insure COIDA as well
  - A health event need not be accidental. In other words you can cover costs including medical expenses and loss of income from accidental disability and costs resulting from accidental death (including funeral as long as you don’t call it that)
  - Disability (besides inability to continue employment or occupation) is the inability to “fully carry on the functions required for normal activities of life”. That could include a common cold

Classes of business, non-life Schedule 2 Table 2

- Travel
  - Is loss or damage resulting from an unforeseen event before, while or after travelling and it includes a death, disability or health event while travelling. Death or disability would have to be accidental to be non-life insurance which does not seem to be the intention. It includes loss of property such as baggage. It doesn’t matter whether the travel is local or offshore.

- Miscellaneous insurance
  - Miscellaneous insurance must be approved by the Prudential Authority

- Reinsurance
  - Reinsurance is proportional or non-proportional reinsurance of the risks of an insurer under any of the above classes.

Transitional arrangements

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Transitional arrangements

- Any matter relating to prudential supervision before the Registrar under the previous Act immediately before the effective date of the Insurance Act must be concluded by the PA in terms of the previous section of the LTIA or STIA

- Same for court proceedings, court orders and investigations and inspections

- For a period of three years after the effective date the PA may initiate an investigation or inspection under the FSR in respect of suspected non-compliance with the previous LTIA or STIA

- Current insurers can continue to conduct insurance business but must within a period of two years when directed by the PA apply for a licence in accordance with the Act

Transitional arrangements

- Where an insurer immediately after the effective date fails to comply with the financial soundness requirements must submit a scheme or strategy to the PA subject to holding capital of at least R10 million

- If an insurer was conducting insurance business outside SA before the effective date may continue to do so for a period of two years- will then need to obtain approval from the PA

- A previously registered insurer part of a group of companies must within two months of the effective date notify PA and must provide the PA with detailed information on the structure of the group

- Phased in repeal of sections?

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