



South African Reserve Bank

**Prudential Authority**

# **Statement of the need for, intended operation and expected impact of the proposed Prudential Standard: Insurance application fees**

**6 March 2019**

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## **1. Introduction**

- 1.1 The Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (FSR Act) became effective on 1 April 2018, with the implementation of the Twin Peaks regulatory framework which saw the establishment of the Prudential Authority (PA). The PA is responsible for the prudential regulation and supervision of banks, co-operative financial institutions, insurers and market infrastructures. The Insurance Act, 2017 (Act No. 18 of 2017) (Insurance Act) commenced with effect from 1 July 2018 and sets out a new regulatory framework for insurers.
- 1.2 The intention under the Twin Peaks model, is for fees payable by financial institutions for performance of specific functions by the PA under the FSR Act and financial sector laws, to be determined under Chapter 16 of the FSR Act<sup>1</sup>. However, the commencement of Chapter 16 is dependent upon the enactment Financial Sector Levies Bill (Levies Bill). Once enacted, the Levies Bill will enable the PA to levy financial institutions to cover the cost of regulation and supervision of financial institutions in addition to the said fees.

## **2. Statement of the need — Context and definition of policy problem**

- 2.1 In terms of section 60 of the Insurance Act, applications submitted to the PA by an insurer or a controlling company for the granting of a licence, other approvals, or any determination, decision, exemption or for the performance of any other act required from the PA under the Insurance Act, must be accompanied by the prescribed fees.
- 2.2 Since the commencement of the Insurance Act on 1 July 2018, the PA has not charged fees in relation to applications submitted by insurers in terms of the Insurance Act and the related Insurance Prudential Standards. The commencement of the Insurance Act on 1 July 2018 and the projected commencement of Chapter 16 of the FSR Act on 1 April 2019, resulted in the PA not being able to charge fees for applications by insurers until 1 April 2019.

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<sup>1</sup> Chapter 16 of the FSR Act deals with Fees, Levies and Finances of the regulators.

- 2.3 It was envisaged that after the commencement of Chapter 16, the PA would have been able to determine the fees for insurers and other regulated entities. Owing to extensive consultations currently underway, the PA does not foresee that the Levies Bill and Chapter 16 of the FSR Act will be in operation by 1 April 2019 as was envisaged.
- 2.4 The provisions of financial sector laws such as the Banks Act, 1990 (Act No. 94 of 1990) and the Mutual Banks Act, 1993 (Act No. 124 of 1993) enable the PA to charge fees for the performance of specific functions. No provision has been made under the Insurance Act for fees payable. Therefore, insurers are currently not paying any fees for specific functions performed by the PA under the Insurance Act and related standards.
- 2.5 In order to address the gap with the insurers, the PA has considered prescribing<sup>2</sup> fees for insurers in terms of the Insurance Act, through a Prudential Standard (Standard), as an interim solution. When Chapter 16 of the FSR Act and the Levies Bill become effective, a new prescribed process for the determination of fees for all PA regulated entities including insurers and controlling companies, will apply.

### **3. Objective of the proposed Standard**

- 3.1 The proposed Standard applies to all persons, including insurers and controlling companies of insurers, making an application to the PA in terms of the Insurance Act.
- 3.2 The overall purpose of the proposed Standard is to prescribe fees for different applications submitted to the PA for any approval, determination, decision, exemption or performance of any other act required from the PA under the Insurance Act and the relevant Prudential Standards for insurers and controlling companies.

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<sup>2</sup> Section 1 of the Insurance Act defines 'prescribed' as meaning prescribed by the PA in a Prudential Standard. The reference to prescribed fees under section 60(2) enables the PA to prescribe fees in a Prudential Standard for applications made under the Insurance Act.

- 3.3 In addition, the Standard sets out ancillary details related to the administration of the fees, such as timing of a fee payment, consideration of an application, treatment of Value-Added Tax (VAT), refunds as well as exemptions from fees.

#### **4. Salient features of the proposed Standard**

- 4.1 The proposed Standard is divided in two parts, the first part deals with matters pertaining to the application of the Standard, definitions and interpretation, roles and responsibilities for compliance with the Standard as well as other administrative matters.
- 4.2 The second part of the proposed Standard is a schedule tabulating all types of applications that may be submitted to the PA by an applicant in terms of the Insurance Act and the relevant Prudential Standards applicable to insurers and controlling companies. The schedule references the relevant sections of the Insurance Act or relevant Prudential Standards for insurers and controlling companies, a description of the application and the applicable fee for each of the referenced applications.
- 4.3 In line with the objects of the FSR Act that seek to promote financial inclusion and the transformation of the financial sector, a different fee structure is proposed for microinsurers, that is lower than the proposed fees structure for other insurers. This is also aimed at ensuring that there is proportionality in the fees structure between microinsurers and other insurers and controlling companies.

#### **5. Statement of expected impact — Costs, benefits of proposed Standard**

- 5.1 Under the Long-term Insurance Act, 1998 (Act No. 52 of 1998) and the Short-term Insurance Act, 1998 (Act No. 53 of 1998) (LT and ST Insurance Acts), fees for applications in terms of the LT and ST Insurance Acts were last determined through the Insurance (LT) Notice 1 of 2018 and Insurance (ST) Notice 2 of 2018 (Insurance Notices). The fees came into operation on 1 April 2018 and in respect of provisions in the LT and ST Insurance Acts that were repealed by the Insurance Act, applied until 1 July 2018 when the Insurance Act came into operation.

- 5.2 Some of the applications that existed under the LT and ST Insurance Acts have been maintained under the Insurance Act in one way or the other. Where applications that existed under the LT and ST Insurance Acts were maintained under the Insurance Act, the corresponding fees previously determined under the respective Insurance Notices have also been maintained. No inflationary adjustments were made to the fees.
- 5.3 In respect of new applications in terms of the Insurance Act, which did not exist under the LT and ST Insurance Acts, the fees for known applications were used as a basis for determining the fees for new applications.
- 5.4 In light of the above, the proposed fees for insurers have largely been kept at the same levels as previously determined under the LT and ST Insurance Acts. Against this background, it is the PA's view that the expected impact of the proposed Standard on the industry will not have any additional material costs to the fees structure that existed before the Insurance Act. The overall impact is expected to be minimal.
- 5.5 In fact, the PA will be recovering slightly reduced fees given that a portion of the fees will be paid over to the South African Revenue Services as Value-Added Tax (VAT). Under the then Financial Services Board (FSB), no VAT was charged to insurers, as the FSB was not a VAT vendor unlike the PA and the South African Reserve Bank.
- 5.6 Given that the proposed fees will only be charged to insurers as and when they submit applications for consideration by the PA, the impact of the proposed fees will affect the regulated entities differently.
- 5.7 Insurers submitting a large number of applications to the PA will be impacted more than insurers submitting a small number of applications or no applications at all.
- 5.8 For the period 1 July 2018 to 31 December 2018, the PA received 239 applications from insurers and controlling companies for processing, in terms of the Insurance Act. The composition of the applications is shown in Table 1.

*Table 1: Composition of applications received in terms of the Insurance Act (1 July 2018 to 31 December 2018)*

| Description of application                               | No. of applications received | % of total applications |
|----------------------------------------------------------|------------------------------|-------------------------|
| Approval of key persons                                  | 130                          | 54.39%                  |
| Approval of ancillary own funds                          | 23                           | 9.62%                   |
| Approval of single ORSA for Insurance Group              | 12                           | 5.02%                   |
| Approval of changes in Control                           | 10                           | 4.18%                   |
| Approval of asset Encumbrance                            | 6                            | 2.51%                   |
| Authorisation of additional Shares                       | 6                            | 2.51%                   |
| Approval of chairperson or non-independent director      | 6                            | 2.51%                   |
| Approval for combination of control functions            | 6                            | 2.51%                   |
| Approval of transfer of assets and liabilities           | 5                            | 2.09%                   |
| Approval to issue Securities other than Shares           | 5                            | 2.09%                   |
| Approval of material acquisitions and disposals          | 4                            | 1.67%                   |
| Alternative risk and remuneration committee arrangements | 4                            | 1.67%                   |
| Approval of iterative risk margin calculation method     | 3                            | 1.26%                   |
| Application for licence                                  | 3                            | 1.26%                   |
| Approval of exemptions                                   | 3                            | 1.26%                   |
| Approve conduct business outside SA                      | 2                            | 0.84%                   |
| Approve insurance terms use                              | 2                            | 0.84%                   |
| Other (various)                                          | 9                            | 3.77%                   |
| <b>Total</b>                                             | <b>239</b>                   | <b>100%</b>             |

5.9 Applications received in terms of the Insurance Act for the period under review were dominated by applications for the approval of key persons (54%), followed by approval of ancillary own funds (9.6%). Applications dealing with approvals of own risk and solvency assessment (ORSA) as well as change in control accounted for 5% and 4.2% respectively.

5.10 In light of the proposed application fee structure and having considered the nature and number of applications that were received during the 6 month period, a combined total of R6 million would have been paid to the PA in application fees by the all insurers. Assuming a similar trend for an extended period of 12 months, annual fees can be estimated at R12 million for the insurance industry. This amount, relative to the size of the insurance sector, measured by the total gross premiums of R636 billion (in 2017), is insignificant.

## **6. Statement of intended operation — Implementation and evaluation**

6.1 This Standard applies to all insurers and controlling companies, and the board of directors of the insurer or controlling company is ultimately responsible for ensuring that the insurer complies with the requirements of this Standard.

- 6.2 The detailed process to be followed by an insurer or controlling company when making a fee payment has not entirely been incorporated into the Standard but will be published separately by the PA (See Annexure A).
- 6.3 The Standard will be repealed when the process envisaged in Chapter 16 of the FSR Act comes into operation.

## **7. Conclusion**

The Standard and this Statement are prepared in terms of section 98(1) of the FSR Act and published in terms of the requirements of section 98(2) of the FSR Act and will take into consideration all submissions that will be received during the public consultation process.

**Annexure A**



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## **Process for payment of fees prescribed in terms of the Insurance Act, 2017 (Act No. 18 of 2017)**

### **Payment for an application**

1. The applicant makes reference to the 'Prudential Standard: Insurance application fees and identifies the application type and fee relevant to the proposed application.
2. The relevant fee must then be paid to the following account:  
  

|                       |                                                         |
|-----------------------|---------------------------------------------------------|
| <b>Account name</b>   | <b>: SARB: Insurance Supervision Remittance Account</b> |
| <b>Account number</b> | <b>: 8060 8876</b>                                      |
| <b>Branch code</b>    | <b>: 900 145</b>                                        |
3. When making the payment, the applicant must use the insurer number allocated by the Prudential Authority (PA) as a reference. Where an applicant does not have an insurer number, the applicant must use its name as the reference.
4. An invoice will be generated and emailed to the applicant once the payment has been processed.

### **Submission of an application**

5. The insurer or controlling company must submit the application and proof of payment to the following e-mail address:

**[Insurance.Applications@resbank.co.za](mailto:Insurance.Applications@resbank.co.za)**

6. For new licence applications, the application and proof of payment must be sent to the following e-mail address and marked "New License Application":

**[Insurance.NewLicence@resbank.co.za](mailto:Insurance.NewLicence@resbank.co.za)**

7. For applications made in terms of section 5(9) of the Insurance Act, 2017 (Act No. 18 of 2017), the application and proof of payment must be sent to the following e-mail address and marked "Section 5(9) Application":

**[PA-InsuranceSection5@resbank.co.za](mailto:PA-InsuranceSection5@resbank.co.za)**



8. Applications in terms of section 5(9) of the Insurance Act will be forwarded to the Financial Sector Conduct Authority (FSCA) for processing in terms of section 48(4) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) read with the Memorandum of Understanding between the PA and the FSCA.
9. Once the application has been processed and finalised the outcome of the application will be communicated directly to the applicant by the FSCA.