

Insurance Act, 2017 and Short-term Insurance Act, 1998

Joint Communication 3 of 2018

Temporary continuation of insurance business of the Intermediaries Guarantee Facility (IGF)

Objective of this communication

The objective of this Communication is to confirm the intention of the Prudential Authority to grant the IGF an exemption from the relevant prudential requirements in order to facilitate the continued operation of the IGF until 31 March 2019. The purpose of the exemption is to ensure a smooth transition from the previous premium collection legislative framework contained in Regulation 4 of the Short-term Insurance Act, 1998 Regulations to the new premium collection legislative framework as contained in the most recent amendments to the Short-term Insurance Act, 1998 Regulations.

This Communication also confirms that notwithstanding the continued operation of IGF, insurers still need to demonstrate the steps they have taken to ensure compliance with the new premium collection requirements contained in Regulation 4 of the Short-term Insurance Act, 1998 Regulations.

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1. Application

This Communication is relevant to all short-term / non-life insurers and intermediaries that collect short-term /non-life insurance premiums.

2. Background and extent of continuation of insurance business by IGF

Amendments to the Regulations under the Short-term Insurance Act No. 53 of 1998 (STI Act) were promulgated on 28 September 2018. The amendments to the Regulations under the STI Act (“Regulations”) included a significant change in approach in terms of the premium collection legislative framework. Amongst other things, the requirement that a person collecting premiums has to hold security by means of a guarantee policy or bank guarantee has been removed and the relevant risks will be mitigated through the prudential framework under the Insurance Act No. 18 of 2017 (Insurance Act).

Historically the Intermediaries Guarantee Facility Limited (IGF), a registered insurer, was established with the specific purpose of providing security to intermediaries that meet the requirements of Regulation 4. However, with the removal of the security requirement from Regulation 4, the need for the IGF also falls away. Because of the removal of the security requirement and due to the prudential requirements (financial soundness and governance) forming part of the prudential framework under the Insurance Act, the IGF will not continue to operate as a licensed/registered insurer.

The conditions relating to the discontinuation of the IGF will be managed through the conversion process as communicated by the Prudential Authority (“PA”) in its *Communication 2 of 2018, Process for the conversion of registration*.

It is, however, acknowledged that it will take the industry time to phase out the “security requirement” approach and adapt to the new premium collection requirements contained in Regulation 4. To this end, in order to facilitate a smooth transition the IGF will, through the conversion process, be allowed to continue to accept new business in the coming months on the condition that all

policies issued by the IGF will terminate on 31 March 2019 (including all policies issued by the IGF between now and 31 March 2019). The intention is to ensure that intermediaries whose IGF policies expire in the months to come are still able to obtain a guarantee policy from the IGF until 31 March 2019. After 31 March 2019, insurers who allow intermediaries to collect premiums on their behalf will no longer be able to rely on intermediaries obtaining IGF policies and alternative arrangements will therefore have to be made.

It is acknowledged that the IGF is currently unable to comply with the relevant Prudential Standards under the Insurance Act. To facilitate the continued operation of IGF until 31 March 2019, the PA will grant the IGF the necessary temporary exemptions (under item 13 of Schedule 3 of the Insurance Act) from the relevant prudential requirements.

3. Compliance with the new premium collection requirements

Notwithstanding the aforementioned, please note that insurers must be aware that requiring an intermediary to obtain an IGF policy is in itself not sufficient to meet the requirements of Regulation 4. The new Regulation 4.1(5) which became effective immediately provides that where an insurer authorises an intermediary to collect premiums, the insurer must at all times be satisfied that –

- (a) the independent intermediary is fit and proper and has the necessary operational ability to satisfactorily perform the functions or activities contemplated in the authorisation;
- (b) such authorisation will not materially increase risk to the insurer; and
- (c) such authorisation will not compromise the fair treatment of or continuous and satisfactory service to policyholders.

Going forward insurers are expected to demonstrate the steps they have taken to ensure compliance with regulation 4.1(5).