

INVESTMENT FUNDS

Exemptions for certain short-term insurers and long-term insurers providing premium relief

17 April 2020 4 min read

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The FSCA has allowed insurers to provide premium relief to policyholders. This may have negative financial effects on the ability of policyholders to claim during the period in which the premium relief is granted and may affect the income of independent intermediaries. The FSCA has thus issued exemptions from the Regulations dealing with the adjustment and refund of commissions for both short- and long-term insurers.

1. Contextual background

A number of insurers have approached the Financial Sector Conduct Authority (the "FSCA") to request permission to grant premium relief to certain policyholders who may be unable to meet their insurance policy obligations due to the COVID-19 pandemic.

Two unintended consequences of offering such relief have been identified. Firstly, the policyholder may be barred from receiving policy benefits or requesting either a partial or full surrender or loan in respect of an investment policy for an extended period. Secondly, the inability to pay premiums may have a negative impact on the income of intermediaries whose commissions are based on the receipt of premiums.

The FSCA has therefore granted the request to allow insurers to make use of premium relief and provided exemptions to insurers who grant such premium relief in order to minimise these potential unintended consequences. The exemptions granted by the FSCA are effective as of 15 April 2020.

2. Exemption for short-term insurers and independent intermediaries

Short-term insurers and independent intermediaries are exempted from the provision of the regulations under the Short-Term Insurance Act^[1] that commission may only be paid once the premium is paid to the insurer. The exemption is subject to the conditions that:

- 2.1 the premium relief is limited to policyholders who are up to date with premiums; and
- 2.2 any commission paid in respect of the policy subject to the premium relief must not exceed the prescribed maximum allowable commission.

The FSCA has also advised that valid claims of policyholders who have been granted premium relief should be honoured where the claim event occurred during the premium relief period. Non-compliance with these conditions will result in the exemption no longer being applicable to that short-term insurer.

3. Exemption of long-term insurers providing premium relief

Long-term insurers are exempted from two provisions of the Regulations of the Long-Term Insurance Act.^[2]

3.1 The first exemption relates to the provisions^[3] relating to the immediate adjustment of commission as a result of a reduction in the premium received by the insurer in respect of policies subject to premium relief.^[4] The first exemption is subject to the following conditions:

- 3.1.1 the premium relief is limited to policyholders who are up to date with premiums; and
- 3.1.2 the exemption lapses automatically if the premium remains unpaid for a period of 12 months, and as a result of the unpaid premium,

any commission that was paid in respect of the policy must be adjusted by the long-term insurer and refunded by the independent intermediary to the long-term insurer.

3.2 The second exemption for long-term insurers exempts them from the provision[5] relating to premiums being repaid to a long-term insurer to compensate for the premium relief granted, which premium repayments constitute excess premium and consequently triggers an extended restriction period. This exemption is subject to the following conditions:

- 3.2.1 the premium relief is limited to policyholders who are up to date with premiums;
- 3.2.2 no additional causal event charges should be charged flowing from the premium relief granted; and
- 3.2.3 the long-term insurer clearly discloses any adverse implications from accepting the premium relief.

Non-compliance with any of the conditions mentioned above will result in the relevant exemption no longer being applicable to that long-term insurer.

[1] Regulation 5.2 of the Short-Term Insurance Act 53 of 1998.

[2] Act 52 of 1998.

[3] Regulations 3.5 and 3.17 of Act 52 of 1998.

[4] "premium relief" in the context of long-term insurers means a temporary release from the obligation to pay the premium payable under an existing policy in whole or in part, either by –

- (a) allowing the non-payment of premium for a limited amount of time;
- (b) allowing for an extended period of grace for the payment of premium; or
- (c) a reduction in the amount of premium payable for a limited amount of time;

without reducing or limiting any policy benefits under the policy.

[5] Regulation 4.2(1) of Act 53 of 1998.



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