

Exemptions for certain short-term insurers providing premium relief

1 May 2020 4 min read

by Hilah Laskov, Senior Associate and Chelsea Roux, Candidate Attorney

Reviewed by Shayne Krige, Director and head of the Investment Funds & Private Equity practice

The FSCA has allowed insurers to provide premium relief to policyholders who may be unable to pay their insurance policies due to the financial pressures caused by the COVID-19 pandemic. The FSCA has issued additional exemptions from the Regulations dealing with the payment of commissions for short-term insurers providing such premium relief.

1. Background

On 17 April 2020, we advised that a number of insurers had approached the Financial Sector Conduct Authority (the “FSCA”) to request permission to grant premium relief to policyholders who may be unable to meet their insurance policy obligations due to the COVID-19 pandemic.^[1]

The FSCA, in a notice^[2] (the “**First Notice**”) published on 15 April 2020, responded to these requests by allowing insurers and independent intermediaries to make use of premium relief^[3] and by providing an exemption to insurers who grant such premium relief (“**Entities Providing Premium Relief**”) from, amongst others, the requirement under the Regulations under the Short-Term Insurance Act^[4] (the “**Regulations**”) that commission may only be paid once the premium is paid to the insurer^[5] (the “**First Exemption**”). The First Exemption was made subject to certain conditions.

2. Exemption for short-term insurers and independent intermediaries

On 23 April 2020, the FSCA published a notice^[6] (the “**Second Notice**”) which withdrew and replaced the First Notice.

The Second Notice provides that Entities Providing Premium Relief are exempt from compliance with the requirement under the Regulations that commission may only be paid once the premium is paid to an insurer^[7], as was the case with the First Notice, and goes further to provide that Entities Providing Premium Relief are also exempt from the requirement that any commission paid in respect of the policy must not exceed the maximum allowable commission^[8] (the “**Second Exemption**”).

The Second Exemption is subject to the conditions that:

- 2.1 the premium relief is granted in relation to an existing policy^[9] of which the policyholder is in good standing with the insurer; and
- 2.2 any commission paid in respect of the policy subject to the premium relief must not exceed the prescribed maximum allowable commission, whereas a reference to “premium” in the Regulations^[10] must be read as the premium that would have been payable had it not been for the premium relief.

3. Commencement and duration

The Second Notice is effective as of 23 April 2020 and will remain effective until amendment or withdrawal by the FSCA by notice on its website.

4. Breach of the notice

Non-compliance with the conditions provided in the Second Notice will result in the exemptions no longer being applicable to that short-term insurer.

[1] See Financial Services Sector Update 6 sent on 17 April 2020.

[2] The exemption was granted in FSCA INS Notice 6 of 2020 published on 15 April 2020.

[3] “**Premium relief**” 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

without reducing or limiting any policy benefits under the policy.

[4] GNR.1493 of 27 November 1998: Regulations under section 70 of the Short-term Insurance Act 53 1998 (Government Gazette No. 19495) (“**Regulations**”).

[5] Regulation 5.2 of the Regulations.

[6] FSCA INS Notice 8 of 2020.

[7] Regulation 5.2 of the Regulations.

[8] Regulation 5.3(1) of the Regulations.

[9] “Existing policy”, as defined in the Notice, means a policy entered into before the date on which the Notice is published.

[10] Regulation 5.3(1) of the Regulations.



Shayne Krige

Head of Investment Funds

[View Profile](#)



Hilah Laskov

Director

[View Profile](#)