

FSCA COMMUNICATION 1 OF 2022 (INS)

EXEMPTION FOR DIRECT COLLECTION OF PREMIUM - EXTENSION OF THE EXEMPTION FOR 12 MONTHS.

1 PURPOSE

The purpose of this Communication is to inform stakeholders that the Financial Sector Conduct Authority (“FSCA”) today published two notices, FSCA INS Notice 1 and 2 of 2022, which extend the period of the exemption provided by *FSCA INS Notice 1 of 2021 - Exemption for direct collection of premiums by certain independent intermediaries and short-term insurers, 2021* (“FSCA INS Notice 1 of 2021”) and *FSCA INS Notice 2 of 2021 - Exemption for direct collection of premiums by certain independent intermediaries and long-term insurers, 2021* (“FSCA INS Notice 2 of 2021”), by 12 months and the reasons for the extension thereof.

2 BACKGROUND

- 2.1 On 29 January 2021, the FSCA under section 281 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) published FSCA INS Notice 1 of 2021 in respect of Regulation 5.1(1) and (2) of the Regulations under the Short-term Insurance Act, 1998 (“STIA”) and FSCA INS Notice 2 of 2021 in respect of Regulation 3.2(1) and (2) of the Regulations under the Long-term Insurance Act, 1998 (“LTIA”). For purposes of this communication, FSCA INS Notice 1 of 2021 and FSCA INS Notice 2 of 2021 are collectively referred to as the “Exemption Notices”.
- 2.2 The Exemption Notices were published alongside FSCA Communication 1 of 2021,¹ which provided detailed information on the intention behind the Exemption Notices as an interim step in transforming the premium collection framework. These documents reaffirmed the FSCA’s views, as provided comprehensively in the 2019 position paper that set out proposals on the future regulatory framework for the collection of insurance premiums.
- 2.3 The Exemption Notices are aimed at facilitating the payment of remuneration to an independent intermediary, where premiums are collected directly into the account of an insurer and the technological systems of the independent intermediary enable the direct collection method. Such an independent intermediary performs certain activities in support of the direct collection, which could be described as accounting for premium. Accordingly, the Exemption Notices define accounting for premium in the context of the direct collection of premium and enable that additional remuneration to be allowed, outside of the maximum commission prescribed, for purposes of these activities only, and subject to the conditions as set out in the Exemption Notices.
- 2.4 The Exemption Notices expire on 31 January 2022.

¹ Available on the FSCA’s website under Regulatory Frameworks < Notices < Insurance < 2021 or by clicking on the following link: <https://www.fsc.co.za/Regulatory%20Frameworks/Pages/Notices.aspx>

3 REASONS FOR GRANTING FURTHER EXEMPTION UNTIL 31 JANUARY 2023

- 3.1 As stipulated, the Exemption Notices enable remuneration to independent intermediaries where the premium is collected directly into the insurer's account, in order to support a move to the direct collection model as preferred by the FSCA. As previously alluded to in FSCA Communication 22 of 2020 and related FSCA Communication 1 of 2021, appropriate changes and limitations will be introduced in the future regulatory framework. The FSCA is still working on the proposed draft amendments to the Regulations under the STIA and LTIA, which will be submitted to the National Treasury in due course, with a request to the Minister of Finance to publish the proposed amendments for public consultation.
- 3.2 The aim of extending the period of the exemption provided by the Exemption Notices, by publishing FSCA INS Notice 1 of 2022 and FSCA INS Notice 2 of 2022 today, is to continue to accommodate the payment of additional remuneration over and above commission for activities where direct collections are being done, until further progress has been made regarding the amendments the FSCA is intending to propose to the premium collection framework contained in the Regulations under the STIA and LTIA. FSCA INS Notice 1 of 2022 and FSCA INS Notice 2 of 2022 contain no changes to what was previously contained in the Exemption Notices. FSCA INS Notice 1 of 2022 and FSCA INS Notice 2 of 2022 therefore still accommodate existing business practices, in order to provide industry participants a further opportunity to affect the necessary system and contractual changes to align their business practices with the evolving regulatory framework.
- 3.3 The FSCA once again reiterates that undesirable practices in respect of the interest sharing model and other undesirable practices as communicated in FSCA Communication 22 of 2020 are not supported. Meeting the conditions set out in the Exemption Notices remain paramount to any insurer or intermediary relying on the exemption to justify the payment of remuneration for the direct collection of premium. All remuneration arrangements in this respect must be reasonable and commensurate with the direct collection services being performed, also taking into consideration the nature of the function and the systems required to perform such functions. The remuneration offered or paid may not result in the independent intermediary being remunerated more than once for performing a similar function in respect of the same policy on behalf of the insurer..

4 ENQUIRIES

For more information regarding this Communication contact the Regulatory Framework Department of the Authority at FSCA.RFDRRegulatorySupport@fsca.co.za



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