

**NOTICE**  
**FINANCIAL SERVICES BOARD**  
**REPUBLIC OF SOUTH AFRICA**

**LONG-TERM INSURANCE ACT, 1998 (ACT 52 OF 1998)**  
**SHORT-TERM INSURANCE ACT, 1998 (ACT 53 OF 1998)**

<b>Addressee:</b>	Long- and Short-term insurers, and Lloyd's	<b>File:</b>	
<b>Issue date</b>	<b>Reply date</b>	<b>Information Request</b>	<b>Status</b>
10/09/2013	-	6/2013 (LT&ST&LL)	ISSUED
<b>Subject:</b>	Binder Regulations: System changes required to comply with Regulation 6.3 of the Binder Regulations		

**1. PURPOSE**

The purpose of this Information Letter is to re-emphasise to insurers<sup>1</sup> certain requirements of Regulation 6.3 of the Binder Regulations<sup>2</sup> issued under the Long-term Insurance Act No. 52 of 1998 ("LTIA") and Short-term Insurance Act No. 53 of 1998 ("STIA"), and to indicate the supervisory approach that will be applied in ensuring compliance with these requirements.

**2. BACKGROUND**

2.1 Regulation 6.3 of the Binder Regulations specifies the requirements, limitations and prohibitions relating to binder agreements. Specifically, Regulations 6.3(1)(d), (k) and (p) require, amongst others, that binder agreements must specify that -

2.1.1 the binder holder has appropriate information technology systems in place;

2.1.2 the insurer has continued access to policyholder and policy information held by the binder holder; and

<sup>1</sup> For purposes of this Information Request, reference to "insurers" includes a Lloyd's underwriter as defined in section 1 of the Short-term Insurance Act No. 53 of 1998.

<sup>2</sup> Part 6 of the Regulations made under the Short-term Insurance Act 53 of 1998, as published in GN R1493 of 1998 and amended by GN R462 of 2008 and substituted by GN R1076 of 2011 and Part 6 of the Regulations made under the Long-term Insurance Act 52 of 1998, as published in GN R1492 of 1998 and amended by GN R197 of 2000, GN R164 of 2002, GN R1209 of 2003, GNR.1218 of 2006, GN R186 of 2007 and GN R952 of 2008GN R1493 of 1998, and substituted by GN R1077 of 2011.

- 2.1.3 provide for the intervals, which may not be longer than 60 days, at which the binder holder will update policyholder and policy information in the records of the insurer, which information must, at least, enable the insurer to identify the policyholder, contact the policyholder and assess its liability under the policy.
- 2.2 Information Letter 8/2012, issued on 4 December 2012<sup>3</sup>, indicated the following with regard to the system requirements highlighted in paragraph 2.1 above:
- 2.2.1 insurers must be able to demonstrate that they have detailed action plans in place to meet the requirements as soon as possible, but by no later than 1 January 2014;
- 2.2.2 actions plans must be made available to the Registrar on request;
- 2.2.3 failure to have action plans in place or failure to make them available on request, will be taken into account when considering regulatory and/or enforcement action; and
- 2.2.4 compliance with the messaging standards developed for South Africa by the Association for Cooperative Operations Research and Development (ACORD) are encouraged to meet the requirements of regulation 6.3(1)(k) and (p).

### **3. SUPERVISORY APPROACH**

#### **Regulatory and/or enforcement action**

- 3.1 Insurers are reminded that they must comply with the system requirements highlighted in paragraph 2.1 above by 1 January 2014.
- 3.2 Insurers that are part of a group of companies are further reminded that the system requirements also apply where another legal entity within the group performs a binder function on their behalf.
- 3.3 Failure to comply with paragraph 2.1 may be referred to the Enforcement Committee of the Financial Services Board, in accordance with the Financial Institutions (Protection of Funds) Act No. 28 of 2001.
- 3.4 In addition, failure to comply with paragraph 2.1 will give rise to serious concerns in respect of the adequacy of an insurer's organisational and management capability necessary to carry on its insurance business, specifically through binder arrangements.

The Registrar may therefore regard a failure to comply with paragraph 2.1 as

<sup>3</sup> Binder Regulations: Guidance and supervisory approach.

a failure to meet the requirements of section 9(3)(b)(i) read with section 12(1)(c) of the LTIA and STIA (as the case may be).

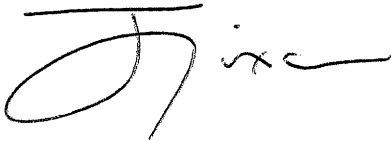
This means that an insurer may be prohibited from carrying on insurance business by way of binder arrangement should an insurer fail to comply with paragraph 2.1 by the date referred to in paragraph 3.1.

### **Monitoring**

- 3.5 The Office of the Registrar will undertake thematic on-site visits in the fourth quarter of 2013 to assess insurers' readiness to implement and comply with these system requirements by 1 January 2014.

## **4. INFORMATION SHARING**

This information letter is available on the website ([www.fsb.co.za](http://www.fsb.co.za)) of the FSB. Insurers must bring this Information Request to the attention of their appointed auditors and statutory actuaries where applicable.



**REGISTRAR OF LONG- AND SHORT-TERM INSURANCE**