

**FRAMEWORK FOR EXEMPTION OF PROVIDERS OF INDEMNITY
PRODUCTS THAT CONDUCT BUSINESS OF A MEDICAL SCHEME FROM
PROVISIONS OF THE MEDICAL SCHEMES ACT, 131 OF 1998**

**NOTICE OF EXTENSION OF EXEMPTION PERIOD
(RENEWAL FRAMEWORK)**



Prepared in consultation with:

National Treasury

Department of Health

Financial Sector Conduct Authority

Prudential Authority

1. APPLICATION

- 1.1 This Notice applies to insurers and their respective financial service providers whose indemnity products have, under section 8(h) of the Medical Schemes Act, 1998 (Act No. 131 of 1998) ("MS Act"), been exempted from the provisions of section 20(1) of the MS Act as set out in the Council for Medical Schemes' (CMS) *Framework for exemption of providers of indemnity products that conduct business of a medical scheme from provisions of the Medical Schemes Act, 1998 (Act No. 131 of 1998)* (the Exemption Framework).

Section 8(h) of the MS Act provides that-

"The Council shall, in the exercise of its powers, be entitled to...exempt, in exceptional cases and subject to such terms and conditions and for such period as the Council may determine, a medical scheme or other person upon written application from complying with any provision of this Act;"

Section 20(1) of the MS Act stipulates that-

"No person shall carry on the business of a medical scheme unless that person is registered as a medical scheme under section 24."

- 1.2 This Notice does not apply to insurers and their respective financial service providers that have not been granted exemption by the Council under the Exemption Framework.
- 1.3 The Exemption Framework does not apply to providers of indemnity products that conduct the business of a medical scheme that are not insurers or financial service providers.

2. PURPOSE

The Purpose of this document is to extend the exemption period stipulated in paragraph 9 of the Exemption Framework.

3. BACKGROUND

- 3.1 The Exemption Framework came into operation on 1 April 2017.
- 3.2 In terms of paragraph 9 of the Exemption Framework, exemption granted under the framework would be for a period not longer than two years from 1 April 2017. The effect of this is that all exemptions granted to date will come to an end on 31 March 2019.
- 3.3 The purpose of the Exemption Framework was to provide for an exemption for insurers and their respective financial service providers that conduct the "business of a medical scheme"¹ by offering indemnity products while a Low Cost Benefit Option (LCBO) Guideline is developed.²

¹ As defined in section 1 of the MS Act.

² Media Statement Health Insurance Policies To Complement Medical Schemes Through An Enabling Regulatory Framework Release Of Final Demarcation Regulations:
<http://www.treasury.gov.za/legislation/regulations/FinalDemarc2016/2016122301%20-%20Demarcation%20press%20statement.pdf>

- 3.4 When the Exemption Framework came into operation, it was anticipated that the LCBO Guideline would be finalised within a period of two years. However, other significant developments, such as the publication of the proposed Medical Schemes Amendment Bill and National Health Insurance Bill during 2018, have led to the finalisation of the LCBO Guideline being delayed.
- 3.5 In light of the aforementioned delay in the finalisation of the LCBO Guideline, all entities whose indemnity products were granted exemption under the Exemption Framework (exempted entities) will be provided with an opportunity to extend their exemption for a further period of two years starting from 1 April 2019.

4. EXTENSION OF EXEMPTION

- 4.1 In order to be considered for the extension of the current exemption period, insurers and their financial service providers that were granted exemption under the Exemption Framework must –
- 4.1.1 apply for such an extension before **29 March 2019**; and
- 4.1.2 meet the requirements for an extension of the exemption as set out in paragraph 4.3.
- 4.2 An application for extension of the exemption as referred to in paragraph 4.1 must contain information demonstrating that the requirements for an extension of the exemption as set out in paragraph 4.3 are met.
- 4.3 In order for Council to consider an application for the extension of the exemption, the –
- 4.3.1 exempted entity must be registered under the Companies Act, 2008 (Act No. 71 of 2008), or under the Co-operatives Act, 2005 (Act No. 14 of 2005);
- 4.3.2 exempted entity must be a long-term insurer as defined in the Long-term Insurance Act, 1998 (Act No. 52 of 1998) or short-term insurer as defined in the Short-term Insurance Act, 1998 (Act No. 53 of 1998) and its respective financial service providers must be registered in terms of Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);
- 4.3.3 insurers which were granted exemption must demonstrate that-
- (a) its key persons and significant owners meet the prescribed fit and proper requirements;
- (b) it has adequate operational and management capabilities to provide primary health care cover;
- (c) it complies with the governance, operational, financial soundness, reporting and public disclosure requirements of the Insurance Act; and
- (d) the extension of its exemption is in the best interest of beneficiaries and not contrary to the interests of medical schemes;
- 4.3.4 a financial service provider of an insurer who was granted exemption must demonstrate that-
- (a) it complies with Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);
- (b) its key persons meet the prescribed fit and proper requirements as stipulated in the Financial Advisory and Intermediary Services Act ;
- 4.3.5 CMS must be satisfied that the name of the exempted entity as well as its product/option names –

- (a) is not identical to or does not closely resemble that of a medical scheme or a medical scheme option or an accredited administrator; or
- (b) is not likely to be misleading or contrary to the interests of beneficiaries or medical schemes.

4.3.6 In addition, exempted entity and its financial service providers must submit the information as per paragraph 7.1 and 7.2 of the Exemption Framework, on the CMS portal on or by close of business Friday, 29 March 2019. **It should be noted that no late applications will be accepted.**

4.4 Applications for the extension of exemption submitted in terms of paragraph 4.1 will only be granted if all the requirements for extension of exemption as set out in paragraph 4.3 are met.

4.5 All extension applications will be evaluated by the Demarcation Adjudicative Committee ("DAC"), referred to in paragraph 10 of the Exemption Framework.

4.6 Conclusions and recommendations from the DAC shall be submitted to the subcommittee of Council, the Executive Committee ("EXCO") which deals with exemptions for approval.

4.7 The Council shall grant exemptions in such a manner that the interests of existing policyholders are protected and will apply various conditions in terms of paragraph 8.2 of the Exemption Framework.

4.8 An extension of exemption will be granted for a period of two years starting from 1 April 2019.

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