|  |  |
| --- | --- |
| Long Title | FSRB alignment, public comments & improved description. |
| Section 1(1): ‘‘accident’’ | Additional amendment: Clarification. |
| Section 1(1): ‘‘control function’’  | FSRB alignment. |
| Section 1(1): ‘‘controlling company’’  | Public comments: Linked to amendments proposed in the body of the Bill. |
| Section 1(1): ‘‘disability event’’ | Public comments: Clarification.Correction – “or” inserted between paragraphs (a) and (b). |
| Section 1(1): ‘‘Financial Sector Regulation Act’’  | FSRB alignment. |
| Section 1(1): ‘‘fit and proper requirements’’ | FSRB alignment. |
| Section 1(1): ‘‘governing body’’  | FSRB alignment. |
| Section 1(1): ‘‘group of companies’’  | FSRB alignment & Additional amendment: Clarification. |
| Section 1(1): ‘‘head of a control function’’  | FSRB alignment. |
| Section 1(1): ‘‘juristic person’’  | FSRB alignment. |
| Section 1(1): “life insurance policy” | Public comments: Phrase moved as it applies to the full definition and not only (ii). |
|  | Correction of reference to the Collective Investment Schemes Act |
| Section 1(1): ‘‘microinsurance business’’ | Public comments: To expand the classes of business that microinsurers may provide.  |
| Section 1(1): “non-life insurance policy” | Public comments: Phrase moved as it applies to the full definition and not only (ii). |
| Section 1(1): ‘‘official web site’’  | Additional amendment: Clarification. |
| Section 1(1): ‘outsourcing’’  | FSRB alignment. |
| Section 1(1): ‘‘Prudential Authority’’  | Consistency. |
| Section 1(1): ‘‘Prudential Standard’’  | FSRB alignment.Correction: standard should be small cap |
| Section 1(1): “Regulation”  | FSRB alignment. |
| Section 1(1): ‘‘reinsurer’’  | Reinsurance Regulatory Review Position Paper: Alignment. |
| Section 1(1): “related person” | Additional amendment: The definition of “related” in the companies Act refers to section 2. This implies that this definition is not necessary. |
| Section 1(1): “scheme”  | New definition: “scheme” for purposes of sections 29 and 52 means a compliance scheme referred to in section 31, a recapitalisation scheme referred to in section 39 or a recovery scheme referred to in section 42. |
| Section 1(1): ‘‘senior manager’’ | FSRB alignment. |
| Section 1(1): ‘state-owned insurer’’  | Public comment: Correction. Not all state-owned insurers are established under or authorised to be established under an Act of Parliament. |
| Section 1(1): “strategy” for purposes of sections 29 and 52 means a recapitalisation strategy referred to in section 39  | New definition: “strategy” for purposes of sections 29 and 52 means a recapitalisation strategy referred to in section 39 |
| Section 1(1): ‘‘this Act’’  | FSRB alignment. |
| Section 1(1): “transformation of the insurance sector”  | Public comments & FSRB alignment: To explicitly provide for the public policy objective of transformation in the Bill in a manner that requires same to be considered together with other public interest considerations.  |
| Section 1(1): “Tribunal’’  | FSRB alignment. Correction: ‘‘Tribunal’’ ~~means the Financial~~has the meaning as defined in the Financial Sector Regulation Act; |
| Section 1(1): ‘winding-up” | FSRB alignment. |
| New section 1(2) | FSRB alignment. |
| Section 2(2) | Public comments & FSRB alignment: To explicitly provide for consideration of the South African context. |
| Section 2(3)(a) | FSRB alignment. |
| Section 2(4)(a) | Public comments: Correction. There is no paragraph (b). |
| Section 3 | Public comments: To explicitly recognise that the objective of the Bill is to be achieved in a manner that is consistent also with the Constitution and to explicitly provide for the public policy objective of transformation in the Bill.. FSRB alignment & additional amendment: Clarity about the purpose of the legal framework (this is only a prudential bill). |
| Section 4(2) and (3) | Corrections. |
| Section 4(5) | Public comments: To ensure that reinsurers are not subject to this limitation. The same risks associated with insurers conducting business outside of South Africa does not arise in respect of reinsurers. |
| New section 4(6) | Public comments: To provide for criteria that must inform the exercise of discretion. |
| Old section 4(6) – deleted | Correction. To align with the amended definition of “state-owned insurer”. Additional amendment: To ensure the consistent application of the regulatory framework to all insurers. |
| Old section 4(6) [now 4(7)] | Corrections. |
| Old section 4(8) [now 4(9)] | FSRB alignment. |
| Section 5(9) | Correction: removal of “(a)”. |
| Section 7(2) | FSRB alignment & correction. |
| Section 10(1) | Alignment with revised definition of “group of companies” and correction.. |
| New section 10(2) | Public comments: To clarify that the designation of the insurance group must include the designation of a holding company that must apply to be the controlling company of that group. |
| Old section 10(4) [now 10(5)] | FSRB alignment. |
| Old section 10(7) [now 10(8)] | Correction: clarity. |
| Section 12(1) | Correction: clarity. |
| Section 12(3) | Correction. |
| Section 12(1) | Correction: clarity. |
| New section 12(4) | FSRB alignment. |
| Section 16(5) - deleted | FSRB alignment. |
| Section 17(3) | FSRB alignment. |
| Section 17(4) | Public comments: To explicitly include a reference to “reasonably”.Additional amendment: To ensure fair administrative procedures.FSRB alignment. |
| Section 19(2) | Additional amendment & correction: These powers should also extend to the controlling company as it is also licensed under the IB. |
| Section 22(1)(a) & (b) | Additional amendment: To allow for mutuals.Correction.Clarification of (a) and (b) read with (c) - grammatical. |
| Section 22(1)(c) | Public comments: To explicitly provide for the public policy objective of transformation in the Bill at licensing stage. At licensing stage, the applicant should have a clear plan to meet transformation objectives. This is a more appropriate solution than requiring hard coded minimum targets.  |
| Section 22(1)(d) | Public comments: To explicitly provide for the public policy objective of transformation in the Bill. |
| New section 22(1)(e) | Additional amendment: To clarify the requirements that applies in respect of state-owned entities. |
| Section 23(2) | Additional amendment: To ensure appropriate consultation obligations. |
| Section 23(5) | FSRB alignment. |
| Section 25(6)(b) | Public comments & additional amendment: To clarify that risks of other insurers (local and foreign) may only be insured with the approval of the PA. |
| New section 25(7)(b) | Reinsurance Regulatory Review Position Paper: Alignment. |
| Old section 25(7) [now 25(8)] | Additional amendment: To limit the purpose for which licensing conditions may be imposed. |
| Old section 25(8) [now 25(9)] | Additional amendment: To limit the purpose for which licensing conditions may be imposed. |
| Old section 25(9) [now 25(10)] | Public comments: To facilitate broader government objectives. |
| Section 26(1)(b) | Public comments: To explicitly provide for the public policy objective of transformation in the Bill at variation. |
| Section 27(3)(a) | Additional amendment: To limit the purpose for which licensing conditions may be imposed. |
| Section 30(4) | Correction. |
| Section 31(4) & (5) | Correction. |
| Section 32(6) | Correction. |
| Section 40(2) | Additional amendment: Amended to clarify that the security must be provided by the underwriters and to facilitate the definition of “business conducted in the Republic” provided for under subsection (6). |
| Section 40(4) - deleted | Correction. Moved to section 41. |
| Old section 40(5) [now 40(4)] | Correction. Insert “of” after “respect” in line 1. |
| New section 40(6) | Additional amendment: To clarify what is regarded as insurance business conducted in the Republic by branches of foreign insurers and Lloyd’s underwriters. |
| Section 41(1) | Correction. |
| New section 41(3)(b) | Additional amendment: To ensure that the trust deed cannot be amended without the approval of the PA. |
| New section 41(6) | Additional amendment: To clarify the requirements relating to accessing of the funds in the trust to ensure that no funds may be withdrawn without the approval of the PA even in circumstances where the funds in the trust exceeds the required technical provisions. |
| Section 42(2) | Additional amendment: To ensure that the PA may act in circumstances where the branch of a foreign reinsurer or Lloyd’s didn’t inform the PA under subclause (1) and correction. |
| Section 44(1) | Public comments: To explicitly include a reference to “reasonably”.FSRB alignment. |
| Section 46(1) | Public comments: To ensure that a specific reference is to the Companies Act is included in the subclause. |
| Section 47(2) | Public comments: To clarify which audited financial statements must be made public. |
| Section 48(2)(b) | Correction. Delete “(inclusive”). |
| Section 49(2) | Public comments: To allow for more than one option in the event that information may require investigation. |
| Section 50(5)(a) | Amended to facilitate appropriate methods of communication with policyholders. |
| Section 56(2)(b) | Amended to better reflect the separation of powers doctrine. |
| Section 56(6) | Clarification. |
| New section 58(3)(c) & (d)  | To provide for the period within which the PA must take a decision. |
| Section 58(2)(b) | Amended to better reflect the separation of powers doctrine. |
| New section 58(3)(c) & (d)  | To provide for the period within which the PA must take a decision. |
| Section 59(1)(d) | Amended to better reflect the separation of powers doctrine. |
| Section 60(5) | Additional amendment: To limit the purpose for which licensing conditions may be imposed. |
| Section 60(6) - deleted | Moved to clause 62 as this provision is better placed there. |
| Section 62 - heading | Correction. To better reflect the contents of the clause. |
| New section 62(2) | Moved from section 60. |
| New section 62(3) | Public comments: To explicitly clarify that PAJA applies to administrative actions by the PA. |
| New section 63(2)(b) | To provide for the PA to take into consideration the interests of policyholders when making prudential standards.  |
| New section 62(3)(b) | Correction. Change “is” to “are”. |
| Old section 62(2) [now section 62(4)] | Public comments and FSRB alignment: To elaborate on matters to be considered by the PA when taking administrative action. |
| New section 63(1)(b) | To place a positive obligation on insurers to comply with prudential standards. |
| New section 63(2) | Public comments and FSRB alignment: To elaborate on matters to be considered by the PA when making prudential standards. |
| New section 66  | Public comments: To reinsert the provision on exemptions. |
| New section 66(d)(i) & (ii) | To clarify that exemptions should not prejudice policyholders. And the change “undermine” to “frustrate”. |
| Old section 68 [now 69] | To increase the fines relating to insurers and controlling companies. |
| Old section 68(1)(a) [now 69(1)(a)] | Correction of reference to section 10. |
| Old section 69(1) [now 70(1)] | Correction of reference to the Medical Schemes Act. |
| Old section 70 – new subsection (2) | Additional amendment: To exempt state-owned insurers from certain requirements. |
| Old section 71 – moved to Schedule 3 | Moved to Schedule 3 as it is better placed there. |
| Schedule 1 - replaced | FSRB alignment & additional amendments: The updated schedule provides for alignment with the FSRB and additional amendments necessitated by market conduct reforms. |
| Schedule 2: “linked” | Additional amendment: To ensure appropriateness of the definition. |
| Schedule 2: “market-related” | Additional amendment: To simplify the definition. |
| Schedule 2, Table 2: Liability | Correction. These events are health events and give rise to liability; not medical expenses. |
| Schedule 2, Table 2: Guarantee  | Correction. |
| Schedule 2, Table 2: Accident and Health – individual | Public comments: To ensure clarity. |
| Schedule 2, Table 2: Accident and Health – group | Correction. These events are health events and give rise to liability; not medical expenses. |
| Schedule 2, Table 2: Travel | Additional amendment: To clarify that a death, disability or health event may only be underwritten while the insured is travelling in a country in which the insured is not ordinarily resident. |
| Schedule 3: Item 2 - heading | Additional amendment: To ensure the continuation of the demarcation regulations made in December 2017.Correction: Incorrect paragraph reference. |
| Schedule 3: Item 2 – new subitem (2) | Additional amendment: To ensure the continuation of the demarcation regulations made in December 2017. |
| Schedule 3: Item 7 (old Item 6) – new sub-Item (2) | Additional amendment: To facilitate an appropriate transitional period for existing reinsurance arrangement. |
| Schedule 3: Item 8 (old Item 7)  | Correction |
| Schedule 3: Item 10 (old Item 9)  | Additional amendment. To clarify that subitem (1) is subject to subitem (3).Corection. |
| Schedule 3: Item 11 (old Item 10)  | Additional amendment: To facilitate an appropriate transitional period. |
| Schedule 3: New Item 13 | Additional amendment: To facilitate the implementation of the Bill. |
| Schedules 1 and 3 to be replaced once public comments called for on 10 October 2017 have been considered. |