Proposed Amendments - Schedule 1 of the FIC Act

16 August 2022

Introduction

- On 20 July 2022, Parliament published the proposed amendments to Schedules 1, 2 and 3 of the Financial Intelligence Centre Act 38 of 2001, as amended (“the FIC Act”).
- OUTsurance Life Insurance Company Limited (“OUT Life”) appreciated the opportunity to submit comments in this regard, due to the impact that the proposed amendments may have on our industry.
- Comments were submitted by OUT Life on Friday, 12 August 2022, as requested.

Background

- In early 2020, the Financial Intelligence Centre ("the FIC") had originally published proposed amendments to the Schedules of the FIC Act.
- Amongst others, it was proposed to significantly amend the definition in terms of Schedule 1, Item 8 (long-term insurers).
- The 2020 proposed amendments indicated that "a long-term insurance business that provides products with an investment component" would be subjected to the compliance obligations imposed by the FIC Act.

Background

8	A person who carries on a 'long-term insurance business' as defined in the Long-Term Insurance Act, 1998 (Act 52 of 1998).	**[A person who carries on a 'long-term insurance business' as defined in the Long-Term Insurance Act, 1998 (Act 52 of 1998).]** A person who carries on life insurance business in the "Life Annuities" class, "Individual Investments" class or "Income drawdown" class as described in Table 1 of Schedule 2 to the Insurance Act, 2017 (Act 18 of 2017) or provide rider benefits, as defined in that Act, relating to these classes, but excludes reinsurance business as defined in that Act.

- It was proposed that Long-term insurers providing risk products be excluded from the definition of an Accountable Institution (AI).
- The FIC acknowledged that long-term risk products do pose a low risk, and was hence the reason behind the proposed changes.

Our Interpretation

- The FIC took into account the provisions contained in the Insurance Act of 2017, the withdrawal of Exemption 7, and the risk based approach as catered for in the FIC Amendment Act of 2017. With this in mind, the proposal was made for certain classes of insurance which would be regarded as having little or no money laundering (ML) or terrorist financing (TF) risk, should be excluded from the FIC Act.
- OUT Life too was of the respectful opinion that the FIC was excluding risk products from the 2020 amendments, due to the inherently low risk that these products carry in terms of ML, TF and proliferation financing (PF) risk .
- OUT Life shares the view that long-term insurance policies with an investment component carry a higher risk, and had no objections to these products being subject to the FIC Act.
- It appears that the original amendments relating to long-term insurers has been reconsidered in the 2022 amendments, and the definition in terms of Item 8 has only been aligned with the Insurance Act, but in essence remained unchanged.

Inherently Low Risk Products

- OUT Life currently provides risk products in the form of Funeral and Underwritten Life Insurance policies.
- The Funeral product entails a monthly premium paid via direct debit order from a South African based bank account, or cash payment (limited to the amount owed) which is effected at a Shoprite store kiosk (Checkers, Shoprite, U-Save). Monthly premiums in general are of a very low value. We do not cater for lump sum payments.
- Upon risk event (death of the policy holder), and only if a claim is valid, a payment is made via Electronic Funds Transfer (EFT) to the listed beneficiary/ies.
- In terms of South African legislation, funeral policies are subject to a R100 000.00 limit.
- Refunds are very seldom seen with this product.
- CDD documents are obtained from the beneficiary (both for the policyholder and beneficiary) before payment can be made. Payments are always made to a South African bank account.

Inherently Low Risk Products

- In terms of OUT Life's Underwritten Life insurance product, we are of the opinion that this product too carries a very low ML, TF and PF risk.
- Payments are only accepted via direct debit order from a South African based bank account.
- Once again, only upon risk event (death, critical illness, disability of the life assured) does the real risk arise. Payment is made via EFT to the listed beneficiary/ies, after investigation and the obtaining of the relevant customer documents.
- It would not seem logical to make monthly payments into these policies, only to have to rely on risk event occurring (which could take decades).

Matters for consideration

- OUT Life respectfully believes that these low risk products should not be subjected to the same compliance provisions we see with banking products that have the ability to transact internationally, or investment products that require large payments upfront or could be prone to abuse for ML/TF/PF activities.
- The risk products are not complicated in nature, and do not allow for the movement of funds through complex channels.
- The increased compliance costs, especially where the services of third party vendors are concerned, is not proportionate to the risk. Increased compliance costs result in the increase in product costs which is ultimately passed onto the consumer.

Financial Inclusion

- OUT Life aims to align strategic objectives to the concept of financial inclusion across all income bands.
- The 2011 Policy Paper, "A Safer Financial Sector to Serve South Africa Better", setting out Government's approach to reforming financial sector regulation to better serve the country and its citizens highlights financial inclusion as a key policy priority.
- A simple product, such as our Shoprite Funeral offering, has proven to be a popular choice amongst South Africa's lower income market.
- Increased product costs may result in many South African citizens failing to afford financial products that would benefit their loved ones in the event of a tragic occurrence.
- If the cost of these type of products cannot be contained, it will become unaffordable for many individuals and their loved ones who will be impacted negatively should no financial assistance be offered after the happening of such a tragic event.

Conclusion

- We fully support the objectives of the FIC Act and requirements it aims to achieve. It is, however, our respectful submission that risk products offered in the long-term insurance space do not pose a high risk which requires stringent AML/CFT controls and requirements.
- The above objectives should further be balanced to avoid financial exclusion. For this reason, we would recommend long-term or life insurers be excluded as AIs. However, it would entail that they would still be required to comply with Section 29 (STRs) and Sanction Screen requirements.
- OUT Life would respectfully request that the original proposed amendments (2020) be reconsidered in light of the impact increased compliance obligations would have on the long-term (Life) industry, and people of South Africa.
- It is our submission that the original proposal made sense in the context of the inherently low risk of these product offerings being utilised as a ML vehicle.
- We appreciate this opportunity and thank all of those who have been involved.

OUTSURANCE Life

Thank you!