

**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**

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**NOTICE OF EXTENSION OF EXEMPTION PERIOD  
(RENEWAL FRAMEWORK 2021/2022)**

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Prepared in consultation with:  
**National Department of Health**  
**National Treasury**  
**Financial Sector Conduct Authority**  
**Prudential Authority**

## 1. APPLICATION

- 1.1 This Notice applies to insurers 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-

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*"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;"*

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

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

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- 1.2 This Notice does not apply to insurers 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”<sup>1</sup> by offering indemnity products while a Low Cost Benefit Option (“LCBO”) Guideline is developed.<sup>2</sup>
- 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. 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) were provided with an opportunity to extend their exemption for a further period of two years starting from 1 April 2019 up until 31 March 2021. However, with the impact of Covid-19 and the inability of the LCBO Advisory Committee to meet, the exemption was further extended to 31 March 2022.
- 3.5 Subsequent to the extension for exemption granted in June 2020, the LCBO Advisory Committees have met on four occasions and four workstreams have been formed.

#### **4. LEVYING OF HANDLING FEES**

- 4.1 Given that the CMS is currently not receiving any funding for the consideration of exemption applications of insurers conducting the business of medical schemes, the following handling fees will be levied per application:
- 4.1.1 Insurer applying for exemption – R 2 500
- 4.1.2 Financial Service Provider submitting information on behalf of insurer – R 1 500
- 4.1.3 Fee per option – R 1 000

#### **5. EXTENSION OF EXEMPTION PERIOD**

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<sup>1</sup> As defined in section 1 of the MS Act.

<sup>2</sup> 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>

- 5.1 In order to be considered for the extension of the current exemption period, insurers that were granted exemption under the Exemption Framework must –
  - 5.1.1 apply for such an extension between 31 January 2022 and 14 February 2022;
  - 5.1.2 meet the requirements for an extension of the exemption as set out in paragraph 4.3;
  - 5.1.3 submit the required information on the relevant application for exemption on the CMS Portal within the prescribed timeframes and format as requested by the CMS; and
  - 5.1.4 submit proof of payment of the relevant application handling fees.
- 5.2 The 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.
- 5.3 In order for Council to consider an application for the extension of the exemption, the –
  - 5.3.1 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) with the Companies and Intellectual Property Commission (“CIPC”);
  - 5.3.2 exempted entity must be an insurer as defined in Insurance Act (Act No. 18 of 2017).
  - 5.3.3 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 is not contrary to the interests of medical schemes;
  - 5.3.4 CMS must be satisfied that the name of the exempted entity as well as its product/option names –
    - (a) are not identical to or does not closely resemble that of a medical scheme or a medical scheme option or an accredited administrator; or
    - (b) are not likely to be misleading or contrary to the interests of beneficiaries or medical schemes.

- 5.3.5 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, 14 February 2022. **It should be noted that no late applications will be accepted.**
- 5.4 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.
- 5.5 All extension applications will be evaluated by the Demarcation Adjudicative Committee (“DAC”), referred to in paragraph 10 of the Exemption Framework.
- 5.6 Conclusions and recommendations from the DAC shall be submitted to the Regulatory Decisions Committee (“RDC”) for consideration and to the subcommittee of Council, the Executive Committee (“EXCO”) which deals with exemption applications for consideration in terms of section 8(h) of the MS Act.
- 5.7 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.
- 5.8 An extension of exemption will be granted to applicants who meet the relevant exemption criteria, for a period of two years starting from 1 April 2022 up until the earlier of :
- 5.8.1 The LCBO Framework approved for implementation; or
- 5.8.2 31 March 2024

<b>AVRIL JACOBS</b> <b>ACTING COMPLIANCE &amp;</b> <b>INVESTIGATION</b>	<b>RECOMMENDED</b>	
	<b>NOT RECOMMENDED</b>	

<b>DR. S KABANE</b> <b>CHIEF EXECUTIVE &amp; REGISTRAR</b>	<b>SUPPORTED</b>	
	<b>NOT SUPPORTED</b>	

<b>DR M MAKIWANE</b> <b>CHAIRPERSON</b>	<b>SUPPORTED</b>	
	<b>NOT SUPPORTED</b>	