



Demarcation & Low Cost Benefit Option (Update)

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OVERVIEW

- Update on Demarcation Regulations
- Demarcation Exemption Frameworks
- Demarcation exemption statistics and phases
- Reasons for the extension of exemption
- Development of the Advisory Committees
- Update on the LCBO Guideline
- Recent media articles on new products conducting the business of medical schemes

GUARDRISK CASE

High Court decided that health insurance products were doing the business of medical schemes

In March 2008, the SCA overturned the decision of the High Court and noted that:

- “[21]...,there is no factual indication before us that the policies of the appellant are undermining or would undermine the MS Act or would in any way affect the viability of medical schemes in general.
- [23] Practical reality has shown that there exists a need for this type of insurance and there seems to be no reason why it should not be permitted.”

GUARDRISK CASE AFTERMATH

Health insurance policies proliferated and aggressive marketing thereof.

CMS, FSB and NT engaged stakeholders to come up with a solution to ensure that health insurance products do not undermine the MSA and the viability of medical schemes.

In March 2012 NT published the first draft Demarcation Regulations.

In April 2014 NT published the second draft Demarcation Regulations.

In February 2015 CMS announced its decision to consider the introduction of an LCBO product

DEMARCATIION REGULATIONS – OBJECTIVE

The objective of the demarcation regulations is to **clearly separate health insurance products from medical schemes.**

One of the concerns which the draft Demarcation Regulations seek to address relate to contentions that certain health insurance products (which provide similar benefits to medical schemes) in the long-term and short-term insurance market cause harm to the medical schemes environment by attracting younger and generally healthy members out of medical schemes.

This practice if left unchecked could result in increasing costs for the older and less healthy who remain dependent on medical schemes for their cover.

Pooling healthier and sicker individuals facilitates a form of cross-subsidisation whereby sicker people do not pay

BACKGROUND – CHANGE IN THE DEFINITION OF THE BUSINESS OF A MEDICAL SCHEME

Proposed LCBO was not endorsed by the then Minister of Health

The National Treasury (NT) amended the definition of a “*business of medical schemes*” using the Financial Service Laws General Amendment Act (effective April 2017)

In August 2016 NT wrote to the Department of Health (DoH) making two proposals:

- DoH to conduct further research on design and cost of the LCBO and grant a two year exemption to insurance products doing the business of medical schemes.
- Withdraw the Demarcation Regulations and allow the current market practice to continue.
- DoH responded in October indicated that it would lead the development of an LCBO which must be based on the country’s disease burden and implemented in a manner that supports the principle of adequate financial risk protection and affordability.

UPDATE ON DEMARCATION REGULATIONS

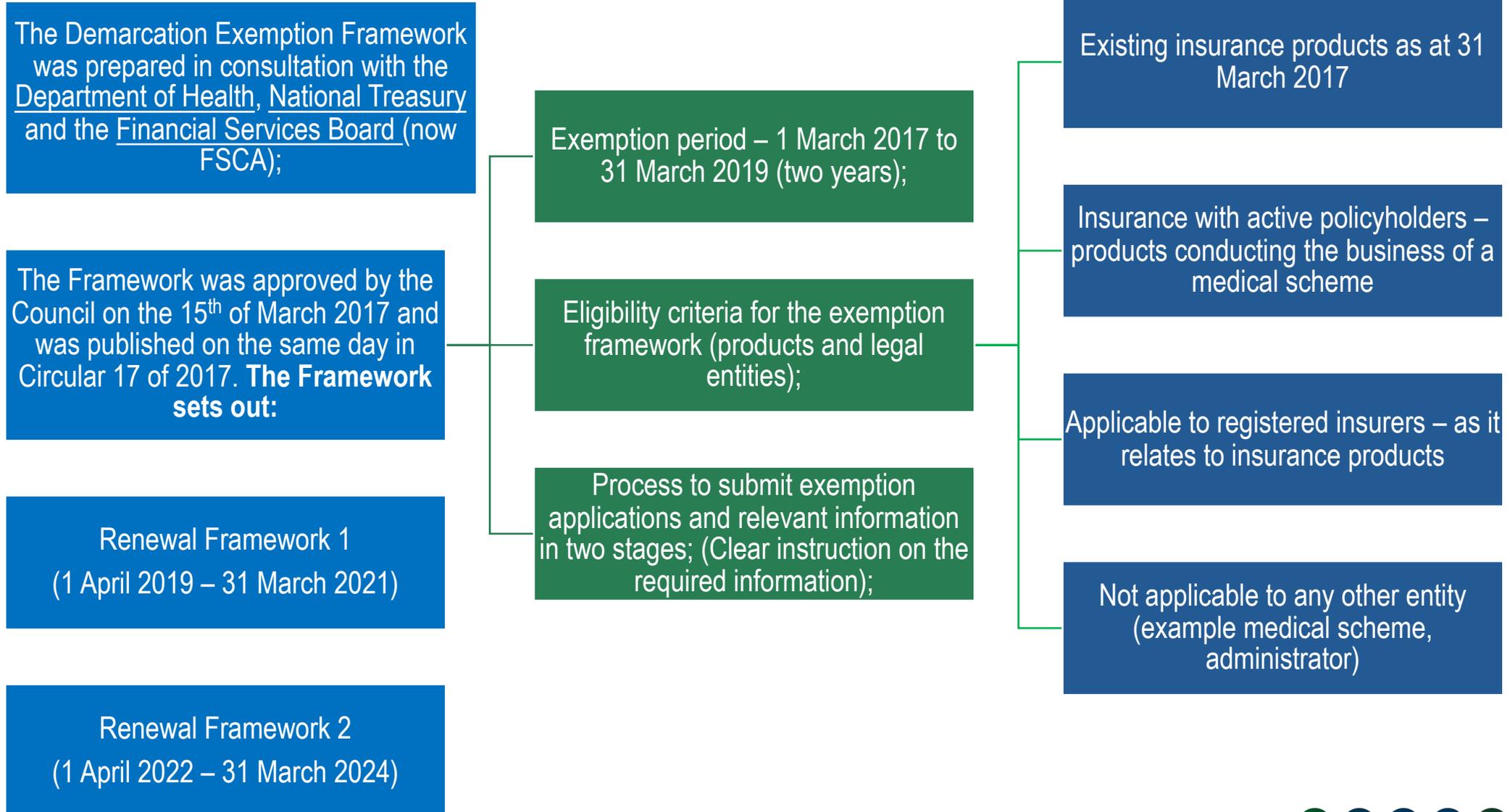
On 23 December 2016, the Final Demarcation Regulations were published

- Effective 1 April 2017

To facilitate a clear demarcation between what constitutes insurance business and business of a medical scheme in instance where there's ambiguity and uncertainty in legislative framework.

In a statement issued by the NT on 23 December 2016, it was made clear that the existing primary healthcare policies will be required to transition into a LCBO framework once finalised.

DEMARCATIION EXEMPTION FRAMEWORKS



DEMARCATIION EXEMPTION FRAMEWORK (2017)

ELIGIBILITY CRITERIA - PRODUCTS

Insurance products doing the business of a medical scheme (relevant healthcare services)	Demarcation insurance products	Pure insurance products
Regulated by the CMS	X Regulated by the FSCA	X Regulated by the FSCA
Primary Care Products	X Gap Cover	X Dreaded disease/critical illness (cash lumpsum if a member is diagnosed with a stated dread disease)
Day to day products	X Hospital Cashback plan (Cash lumpsum for each day spent in hospital)	X Other insurance products not doing the business of a medical scheme
Hospitalisation product	X TB & Malaria treatment X HIV Aids (Meets the definition of the business of a medical scheme, but the burden of disease and impact on state facilities were considered)	
Comprehensive products (day to day and hospitalisation)	X Emergency Medical evacuation & transportation	

DEMARCATIION EXEMPTION FRAMEWORK (2017) ELIGIBILITY CRITERIA – LEGAL ENTITIES

Applicable to

Insurance policies **doing the business of a medical scheme;**

Insurance policies **underwritten by registered insurers;**

Insurance policies **that were in the market as at 31 March 2017;**

Insurance policies with **active beneficiaries as at 31 March 2017;**

Not applicable to X

Medical scheme products and other **non-insurance products;**

Non-insurance products offered by registered **medical schemes, administrators or other entities;**

New products that did not exist as at **31 March 2017;**

Policies with **no active beneficiaries** as at **31 March 2017;**

DEMARCATATION EXEMPTION APPLICATION STATISTICS

Phase 1

Demarcation Exemption Framework

(Circular 19 of 2017 – 15 March 2017)

Due date for submission:

- 31 March 2017

• Council approval:

- 31 May 2017

Phase 2

Demarcation Exemption Framework

(Circular 19 of 2017 – 15 March 2017)

Due date for submission:

- 30 June 2017

• Council approval:

- 17 October 2017

• Exemption period:

- 1 April 2017 – 31 March 2019

Phase 3

Demarcation Renewal Exemption Framework

(Circular 30 of 2019 – 1 April 2019)
(Notice of information to be submitted - Circular 25 of 2019 - 15 March 2019)

Due date for submission:

- 31 March 2019

• Council approval:

- 30 June 2020

• Exemption period:

- 1 April 2019 – 31 March 2021

- Additional extension of exemption by one year, given the impact of Covid-19

Phase 4

Demarcation Renewal Exemption Framework

(Circular 9 of 2022 – 25 January 2022)

Due date for submission:

31 March 2022

Exemption applications are currently being evaluated and will be submitted to Council - estimated date July/August 2022

DEMARCATIION EXEMPTION STATISTICS - CIRCULAR 56 OF 2020 -



Number of principal members

384 589

Number of beneficiaries

490 924

Number of insurers

10



INSURER DEMARCATION EXEMPTION VS MEDICAL SCHEMES STATISTICS

(- CIRCULAR 56 OF 2020 & CMS ANNUAL INDUSTRY REPORT 2020/2021 -)

INSURER DEMARCATION EXEMPTION STATISTICS VS MEDICAL SCHEMES STATISTICS

Number of principal members

Insurers - 384 589

Medical Schemes – 4 034 888

9,53%

Number of beneficiaries

Insurers - 490 924

Medical Schemes – 8 904 679

5,51%

Number of entities

Insurers -10

Medical Schemes – 76

13,15%

REASON FOR THE EXTENSION OF THE EXEMPTION OF INSURERS CONDUCTING THE BUSINESS OF MEDICAL SCHEME

Given that the LCBO Guideline has not been finalised, the CMS published the Demarcation Renewal Exemption Framework on the 25 of January 2022 (Circular 9 of 22), which will provide the extension of the exemption of insurers conducting the business of medical schemes by a further two years, from 1 April 2022 to 31 March 2024. The said exemption relates to the insurers conducting the business of a medical scheme without due registration.

The Demarcation Regulations are legislative in nature. In order to protect policyholders on existing insurance products as at 31 March 2017, an exemption from compliance with the provisions of section 20(1) of the MS Act.

On 3 February 2022, a virtual workshop was held to guide authorised data officers with the submission of renewal application information. Applicants were requested to submit relevant exemption applications as well as pay prescribed fees before 29 March 2022.

DEVELOPMENT OF THE ADVISORY COMMITTEES & WORKSTREAMS

Consultation with various stakeholders - 2020

- NDOH, National Treasury, FSCA, Prudential Authority
- Medical Schemes, administrators, managed care organisations
- Insurers, brokers
- Providers
- Employer groups

Establishment of two Advisory Committees

- Insurance Stream
- Funders Stream
- Member & Provider Stream
 - Terms of reference issued – February 2020
 - Code of Conduct and Charter issued – May 2020

Establishment of working Streams

- Market and Affordability
- Benefit Package and Pricing
- Legislative Requirements
- Implementation Plan & Risk

UPDATE ON THE LCBO FRAMEWORK



RECENT MEDIA ARTICLES ON NEW INSURANCE PRODUCTS CONDUCTING THE BUSINESS OF MEDICAL SCHEMES

Recent media articles on insurers conducting the business of medical schemes

Vouchers:

- Netcare Group
- Discovery Health (Pty) Ltd

Insurance products

- Dis-Chem product
- TymeBank

Legislative provisions were undertaken in terms of section 45 of the Medical Schemes Act - under procedural fairness provisions to allow entities to respond and submit information to the CMS

Section 45 process concluded and directives issued to both Netcare and Discovery – to cease conducting the business of medical scheme

Both entities, Netcare and Discovery Health lodged appeals in terms of section 49 of the MS Act

Ongoing section 45 matters – Dis-Chem and TymeBank products

Thank you.