GOVERNMENT NOTICE
GOEWERMENTSKENNISGEWING

NATIONAL TREASURY
NASIONALE TESOURIE

No. 168 **1 March 2010**

INSURANCE LAWS AMENDMENT ACT, 2008: COMMENCEMENT DATE OF SECTIONS 39, 40, 41(*a*), 42, 43, 54 and 55

I, Pravin J Gordhan, Minister of Finance, in terms of section 57 of the Insurance Laws Amendment Act, 2008 (Act No. 27 of 2008), hereby determine 28 February 2010 as the date on which sections 39, 40, 41(*a*), 42, 43, 54 and 55 of the Insurance Laws Amendment Act, 2008, take effect.

Signed at Pretoria on this 24th day of February 2010.

PRAVIN J GORDHAN
MINISTER OF FINANCE

BOARD NOTICES
RAADSKENNISGEWINGS

BOARD NOTICE 27 OF 2010

FINANCIAL SERVICES BOARD
REGISTRAR OF SHORT-TERM INSURANCE

SHORT-TERM INSURANCE ACT, 1998
(ACT NO. 53 OF 1998)

Prescribed requirements for the calculation of the value of the assets, liabilities and capital adequacy requirement of short-term insurers

1. I, Dube Phineas Tshidi, Registrar of Short-term Insurance, hereby prescribe, under paragraph 2 of Part I of Schedule 2 of the Short-term Insurance Act, 1998 (Act No. 53 of 1998), the requirements for the calculation of the value of the assets, liabilities and capital adequacy requirement of short-term insurers, as set out in the Schedule hereto.

2. This Board Notice will come into effect on 28 February 2010.

DP Tshidi
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DP TSHIDI,
Registrar of Short-term Insurance

SCHEDULE

Prescribed requirements for the calculation of the value of the assets, liabilities and capital adequacy requirement of short-term insurers

(Paragraph 2 of Schedule 2 of the Short-term Insurance Act, 1998)

1. Definitions

In these Requirements, unless the context indicates otherwise:

"Act" means the Short-term Insurance Act, 1998 (Act No. 53 of 1998), and a word or expression to which a meaning has been given in the Act, has that meaning;

"admissible assets" means the kinds of assets specified in section 29 of the Act;

"cash-back bonus", means a benefit specified in the policy document, where the policyholder receives a pre-determined benefit, in relation to the gross premiums received by the insurer, after a specified period of time under specified conditions as specified in the policy document;

"capital requirement", in relation to a regulated financial institution, means the capital or solvency margin, and will include any additional asset requirements, as the case may be, required for that institution by the regulatory authority concerned;

"cell", represents an equity participation as shareholder in a different class of shares that is restricted to the results of the insurance business which the shareholder places in an insurer; the results of such business are determined in accordance with an agreement with the participating shareholder; the different class of shares has specified dividend rights and/or capital risk financing;

"group undertaking" means a juristic person in which the insurer alone, or with its subsidiaries or holding company, directly holds 20% or more of the shares, if the juristic person is a company, or 20% or more of any other ownership interest, if the juristic person is not a company;

"listed" means listed on a stock exchange or similar trading facility, which is recognised generally by the international community of institutional investors;

"net asset value", in relation to a group undertaking, means its net asset value calculated in accordance with paragraph 3.1.10;

"regulated financial institution" means:

(a) a financial institution as defined in paragraph (a) of the definition of 'financial institution' in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990);
(b) a bank as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), or a mutual bank as defined in section 1(1) of the Mutual Banks Act, 1993 (Act No. 124 of 1993);
(c) an entity that carries on business similar to the business of an entity referred to in paragraphs (a) or (b), which is not regulated by a law that regulates an entity referred to in paragraph (a) or (b), but which is subject to substantially similar regulation outside South Africa;

"return" means the returns prescribed by the Registrar in terms of section 35 of the Act;

"Schedule 2" means Schedule 2 of the Act.

2. General requirements

2.1 Except if these Requirements or the Act specifically directs otherwise:

(a) assets must be valued in accordance with financial reporting standards; and
(b) the liabilities of an insurer must be determined in accordance with financial reporting standards.

2.2 Where the insurer applies materiality guidelines in the valuation of its assets or liabilities, they may not be less conservative than the materiality guidelines applied by its external auditors.

3. Valuation of assets

3.1 Value of a group undertaking

3.1.1 The value of a group undertaking must be limited to the percentage of the shareholding or other ownership interest of the insurer in the group undertaking, multiplied by the net asset value of the group undertaking.

3.1.2 If the group undertaking is listed, the value in paragraph 3.1.1 may be increased by -

A multiplied by B

Where –

A equals the difference between the fair value and the net asset value of the group undertaking, provided that A must be taken as nil if the net asset value is larger than the fair value;

B equals the lower of 20% or the percentage of the holding by the insurer in the group undertaking.

3.1.3 If a group undertaking is not a regulated financial institution, and its fair value is less than 0,25% of the value of the liabilities of the insurer, it may be valued at fair value, notwithstanding paragraph 3.1.1.

3.1.4 If there is more than one group undertaking as contemplated in paragraph 3.1.3, each may be valued at fair value, provided that their combined fair value is not more than 2,5% of the value of the liabilities of the insurer. If their combined fair value is more than 2,5% of the value of the liabilities of the insurer, only so many of them, selected by the insurer, as will have a combined fair value of not more than 2,5% of the value of the liabilities of the insurer, may be valued at fair value. The others must then be valued as required by paragraph 3.1.1.

3.1.5 If an insurer holds shares in its holding company, the value of those shares must for purposes of valuation be limited to the following:

(a) If the holding company is listed - 5% of the value of the liabilities of the insurer.
(b) If the holding company is not listed - nil.

3.1.6 Paragraph 3.1.5 applies also where the insurer, directly, or indirectly through a subsidiary or trust, holds shares in its holding company under a share incentive scheme linked to shares in its holding company.

3.1.7 Paragraph 3.1.5 does not apply where the insurer holds shares in its holding company under a collective investment scheme, an index-based investment scheme or any similar investment scheme that is recognised generally by the international community of institutional investors.

3.1.8 If an insurer has a cell in another licensed insurer, the value of those shares must for the purposes of valuation be limited to the fair value of the admissible assets held in the cell less the sum of the value of its liabilities and its capital requirement as reported by the insurer (that issued the cell) in respect of that cell.

3.1.9 If a negative asset value is reported in paragraph 3.1.8 and the shareholders' agreement stated that the insurer that owns the cell is accountable for losses and/or solvency, a liability must be raised for the full negative net asset value.

3.1.10 Net asset value of a group undertaking

3.1.10.1 If the group undertaking is a regulated financial institution

(a) The net asset value of the group undertaking is the value of its assets, less the sum of the value of its liabilities and its capital requirement.