

30 April 2015

To: Principal Officers - All registered insurers and reinsurers
All registered insurance agents, brokers and reinsurance brokers
Chairperson - LAAN
Chairperson - NIBA
Chairperson - AIM
Chairperson - NIA

DIRECTIVE: I/STI/03/2015 & LTI/03/2015

Effective date: With immediate effect

SUBJECT: UNDER-INSURANCE AND OVER-INSURANCE

1. Introduction

- 1.1. This Directive is issued by virtue of NAMFISA's functions and powers, and those of its Chief Executive Officer in his capacity as the Registrar of Long-term and Short-term Insurance, in terms of the Namibia Financial Institutions Supervisory Authority Act No. 3 of 2001, and is applicable to all registered insurers, reinsurers, insurance agents, insurance brokers and reinsurance brokers under the Long-term Insurance Act No. 5 of 1998 ("LTI Act") and the Short-term Insurance Act No. 4 of 1998 ("STI Act").
- 1.2. The purpose of this Directive is to direct all registered insurers, reinsurers, insurance agents, insurance brokers and reinsurance brokers to establish mechanisms to prevent under-insurance and over-insurance within the insurance industry and to inform all policyholders and prospective policyholders of the



possibility and consequences of under-insurance and over-insurance and, where applicable, the limits of the indemnity notwithstanding the sum insured.

- 1.3 This Directive aims to ensure that insurance business is conducted in all respects in good faith, that sound insurance practices are employed in the industry and that insurance brokers and reinsurance brokers perform their duties towards their clients, i.e. existing and prospective policyholders.

2. The current insurance practice

- 2.1 Insured persons sometimes have multiple insurance policies in respect of the same risk which in total exceed the actual indemnity provided.
- 2.2 There are instances whereby insured persons are insured for an amount that exceeds or is below the actual cash value or replacement value of the subject that is insured.
- 2.3 The insurance premiums that are paid by the insured are sometimes not regularly adjusted in order to correspond with the cash value or replacement value of the subject insured, taking into account concepts such as depreciation etc.
- 2.4 The above-mentioned state of affairs results in a situation whereby the premiums that are being paid by the insured are not commensurate to the benefit that would be received by the insured in the event of a loss.
- 2.5 In addition, there are instances whereby the insurance cover is not sufficient to meet the needs of the insured person in the event of the insured against risk or peril occurring. Insured persons sometimes erroneously believe that their insurance cover is sufficient to meet their needs should the insured against risk or peril occur, while this is actually not so since the insured person is under-



insured. The false sense of security that can result from insured persons erroneously believing that they are covered against certain risks can result in unnecessary hardship once a peril occurs.

- 2.6 Notwithstanding the above undesirable state of affairs, registered insurers, reinsurers, insurance agents, insurance brokers and reinsurance brokers sometimes fail to inform all policyholders and prospective policyholders of the possibility and consequences of under-insurance and over-insurance and to review their policies.

3. The law

- 3.1 Section 25 of both the LTI Act and the STI Act requires every registered insurer and reinsurer to carry on insurance business in good faith and to employ sound insurance practices and methods.
- 3.2 Section 67 of the LTI Act and section 66 of the STI Act contains a prohibition against the making of any statement, promise or forecast knowing it to be misleading, false or deceptive; or to wilfully conceal any material facts; or negligently make any statement, promise or forecast which is misleading, false or deceptive, for the purposes of inducing or attempting to induce any person from whom the material facts were concealed to enter into or offer to enter into or to refrain from entering into or offering to enter into any domestic policy with a registered insurer or reinsurer; or to exercise or refrain from exercising any rights under such policy.
- 3.3 Insurance brokers and reinsurance brokers have a duty to negotiate on their client's behalf and to act in their client's best interest.
- 3.4 Insurance brokers and reinsurance brokers owe a duty to their clients to exercise reasonable care and skill in effecting insurance on a client's behalf.



4. Conclusion

4.1 In light of the obligation of insurers and reinsurers to act in good faith and in light of an insurance broker and reinsurance broker's duty to negotiate on their client's behalf with reasonable care and skill as well as the prohibition against the making of misleading, false or deceptive statements, promises or forecasts, insurers, reinsurers, insurance agents, insurance brokers and reinsurance broker have a duty to explain the possibility and consequences of being or becoming under-insured and over-insured to policyholders and prospective policyholders.

4.2 In order for insurers and reinsurers to be considered as acting in good faith and in order for insurance brokers and reinsurance brokers to be considered as acting in their client's best interest with reasonable care and skill, insurers, reinsurers, insurance agents, insurance brokers and reinsurance brokers must ensure that a policyholder or prospective policyholder's insurance cover or proposed insurance cover is necessary, sufficient and relevant.

5. The Directive

5.1 In light of the above, the Registrar directs all registered insurers, reinsurers, insurance agents, insurance brokers and reinsurance brokers to establish mechanisms to prevent under-insurance and over-insurance within the insurance industry.

5.1.1 The measures must include, but are not limited to the following :

5.1.1.1 Avoiding duplication of insurance coverage by verifying that a certain risk or asset is not already sufficiently covered under another insurance policy;



5.1.1.2 Explaining the possibility and consequences of being or becoming under-insured and over-insured to policyholders and prospective policyholders; and

5.1.1.3 Annually and in written form informing policyholders to make reassessments of the cash value or replacement value of the insured risk(s) or property(ies), i.e. the indemnity, in order to avoid being over-insured and under-insured.

5.2 Registered insurers and reinsurers are further instructed to provide the Registrar, by no later than **31 July 2015**, with Board approved assurances which specify that:

5.2.1 They have revised their internal mechanisms and implemented measures as aforesaid aimed at preventing under-insurance and over-insurance.

5.2.2 The Board is satisfied that the implemented measures as aforesaid are effective.

The Registrar therefore requires full cooperation and support in this process by all industry players and stakeholders at large. Should you still need more clarity, please do not hesitate to contact either the long-term insurance manager or the short-term insurance manager.



Phillip N. Shiimi

CEO OF NAMFISA AND

REGISTRAR OF LONG-TERM AND SHORT-TERM INSURANCE