FINANCIAL INSTITUTIONS AND MARKETS ACT, 2018 [Act No. • of 2018]

AMOUNT OF COMMISSION THAT MAY BE PAID TO INSURANCE INSURANCE BROKERS

Standard No. INS.S. 2.9

issued by NAMFISA under section 410(3)(x) of the Financial Institutions and Markets Act, 2018

Definitions

1. (1) In this Standard, “Act” means the *Financial Institutions and Markets Act, 2018* [Act No. • of 2018] and it includes the regulations prescribed under the Act and the standards and other subordinate measures issued by NAMFISA under the Act.

(2) Words and phrases defined in the Act have the same meaning in this Standard, unless the context indicates otherwise, including without limitation, the following:

(a) as defined in section 1 of the Act—

(i) financial service;
(ii) NAMFISA;

(b) as defined in section 4 of the Act—

(i) insurance;
(ii) long-term insurance;
(iii) policy;
(iv) policyholder;
(v) premium;
(vi) short-term insurance;

(c) as defined in section 8 of the Act—

(i) fund policy;
(ii) health insurance business;
(iii) life policy;
(iv) long-term policy;
(v) sinking fund insurance business;

(d) as defined in section 42 of the Act—

(i) Lloyd’s;
(ii) Lloyd’s intermediary;
(iii) Lloyd’s underwriter;

(e) as defined in section 53 of the Act—
(i) insurance agent;
(ii) insurance broker;
(iii) registered insurance agent;

(iv) registered insurance broker; and
(v) registered insurance intermediary.

(3) In this Standard, unless the context indicates otherwise "commission" means compensation paid by a registered insurer to a registered intermediary or Lloyd's intermediary in respect of financial services rendered under Chapter 2 of the Act;

General information

2. This Standard applies to all registered insurance intermediaries, Lloyd's intermediaries and registered insurers.

3. This Standard must be read in conjunction with―

(a) Standard No. INS.S. 2.7 – The fair treatment of clients and policyholders by registered agents and registered brokers; and

(b) Standard No. GEN.S. 9.10 – Outsourcing.

Compliance

4. Any agreement, scheme or arrangement to offer, provide, accept, pay or receive commission for the rendering of a financial service in terms of Chapter 2 of the Act, otherwise than in accordance with this Standard, is void.

<u>**Part I: Long-term Insurance**</u>

Definitions

4. In this part, unless the context indicates otherwise―

(a) "annualised contributions" in relation to a scheme, means the total amount of 12 months' contributions due under such scheme during a scheme year, but excluding transfer values inwards and excluding credits to the employer arising in the scheme by reason of the withdrawal of a member;

(b) "annualised premium" in relation to a group policy, means the total of 12 months' premiums payable under the policy for a scheme year;

(c) "benefit component" means a separately identifiable kind of policy benefit provided under a policy;

(d) "compulsory" in relation to an annuity, means there is a duty in terms of the rules of a fund to take out the annuity;

(e) "group scheme" means a scheme or arrangement which provides for the entering into of a policy, other than an individual policy, in terms of which two or more persons without an insurable interest in each other, are the lives insured;

(f) "m" means the number of months in any scheme year;

(g) “n” means-

(i) in relation to each separately identifiable constituent of a life policy-

(aa) if only C of the numbers A, B and C is applicable to such constituent, C; or

(bb) if C and one or both of A and B are applicable to such constituent, the smaller or smallest, as the case may be, of such numbers as are applicable,

and for the purposes of this definition of “n”:-

(cc) “A” means the number of years in the premium paying term, as such term is uniquely defined;

(dd) “B” means the number of years in respect of which premiums are payable before the earliest survival benefit (including a surrender value but excluding a disability benefit) of at least a specifically stated or pre-determinable monetary amount becomes available;

(ee) “C” means the greater of 10 and 75 minus age next birthday at entry; and

(ii) in relation to retirement annuity policies:-

(aa) under which there is a stated premium paying term, the number of years in such term, but limited to the greater of 10 and 66 minus age next birthday at entry; or

(bb) under which there is no stated premium paying term, the greater of 10 and 66 minus age next birthday at entry;

(h) “P” in relation to any policy year, means, for each separately identifiable constituent of a policy, the premium which in terms of the policy is payable in respect of that year;

(i) “policy” means a long-term policy, other than a reinsurance policy;

(j) “premium” means the consideration paid and still to be paid in respect of a policy, or, where the policy has two or more benefit components, the consideration paid and still to be paid in respect of the benefit component concerned;

(k) “premium term” in relation to a recurring premium policy, or in relation to a benefit component of a recurring premium policy, other than a group policy or a fund policy, means the period for which the premium must be paid, being the shorter of the following periods:-

(i) the period stated in the policy, or ascertainable from its written provisions, at the commencement of the policy or at the commencement of the benefit component; or

(ii) the period for which the premium must be paid before a policy benefit must or may be provided, otherwise than upon a disability event, a health event or the death of a life insured; or

(iii) the period for which the premium must be paid before a consideration must or may be paid upon the surrender of the policy, if the amount of the consideration is stated in the policy, or is ascertainable from its written provisions, at the commencement of the policy or at the commencement of the benefit component; or

(iv) the period that is the longer of—

(aa) 10 years; or

(bb) in the case of a fund member policy, the number of full years from the beginning of the first premium year to the 66th birthday of the life insured; or

(cc) in the case of another policy, the number of full years from the beginning of the first premium year to the 75th birthday of the life insured;

(l) "premium year" in relation to a recurring premium policy or a benefit component of a recurring premium policy, other than a group policy or a fund policy, means one of a succession of periods, each of 12 months, the first of which begins on the date the policy, or the benefit component concerned, is entered into, or, if it is a later date, the date on which the obligation of the registered insurer in respect of the policy or the benefit component becomes operative;

(m) "regular premium policy" means a policy under which the premium is payable in two or more amounts;

(n) "scheme year" in relation to a scheme, means a period commencing on—

(i) the date of commencement or the inception date, as the case may be, of the scheme with a registered insurer; or

(ii) the date of the appointment of a registered insurance agent, a registered insurance broker, as the case may be, to the scheme,

whichever is the later, and ending on—

(aa) the day preceding the next succeeding inception date of the scheme; or

(bb) the date of termination of the scheme with the registered insurer; or

(cc) the date of termination of the appointment of the registered insurance agent or registered insurance broker, as the case may be, to the scheme;

(o) "single premium policy" means a policy under which the premium is payable in one amount only;

(p) "Table" means Table 1 or Table 2 in Schedule 1 attached to this Standard;

(q) "term cover" means cover that is provided under a policy during a specified limited period of time; and

(r) "tied", in relation to a compulsory annuity, means a type of annuity where the retirement fund itself provides the compulsory annuity to its member or where the retirement fund rules predetermine the registered insurer where the compulsory annuity must be provided.

Limitation of commission payable in respect of long-term insurance

5. (1) A registered insurer must not directly or indirectly pay, allow or give commission to a registered insurance intermediary or Lloyd's intermediary in respect of financial services rendered in terms of

Chapter 2 of the Act, otherwise than in monetary form and in accordance with this Part, and more particularly, as specified in Table 1 of Schedule 1 attached to this Standard.

(2) A registered insurance intermediary or Lloyd's intermediary must not, directly or indirectly, receive or accept commission from a registered insurer in respect of financial services rendered in terms of Chapter 2 of the Act, otherwise than in monetary form and in accordance with this Part, and more particularly, as specified in Table 1 of Schedule 1 attached to this Standard.

6. Irrespective of how many persons render financial services as registered insurance intermediaries or Lloyd's intermediaries in relation to a policy, the total commission that may be paid and received in respect of that policy may not exceed the maximum allowed under Table 1 of Schedule 1 attached to this Standard.

7. No commission shall be paid, allowed, given or accepted on a policy before the date on which the premium, in respect of which the commission is based, is paid to the registered insurer concerned, except that commission relating to any particular policy year may be paid, allowed, given or accepted at the commencement of that year and in advance of receipt of any premium for that year by the registered insurer, provided that:-

> (a) for the purposes of calculating the amount of the commission payable in advance, it must be assumed that the premium becomes due with the same frequency as the commission; and
>
> (b) if any such premium remains partially or wholly unpaid, the registered insurer shall reverse the commission relating to the unpaid amount or the whole, as the case may be, of such premium within 24 months.

8. If a premium or any part thereof is for any reason refunded by a registered insurer, the commission paid, allowed or given in respect of that premium or part of that premium, if any, shall be paid back to the registered insurer by the person to whom it was paid, allowed or given at the discretion of the registered insurer.

Time of payment of commission

9. The commission payable in terms of Table 1 of the Supporting Schedule attached to this Standard may be paid in one or more amounts, but must not be paid or received before:-

> (a) the first premium year has begun; or
>
> (b) the premium, in respect of which the commission is payable, has been received by the registered insurer.

Commission when a policy has two or more benefit components

10. If a policy has two or more benefit components, and it is not specified in the policy or the portion of the total premium attributable to each benefit component is not ascertainable from the written provisions of the policy, the commission that may be paid must not exceed the maximum that would have been allowed had the policy comprised of, and had the total premium been attributable to only the benefit component that most closely reflects the main purpose of the policy, to the exclusion of other subordinate purposes of the policy.

Calculation of commission

11. Commission in respect of individual life insurance business shall be calculated as set out in Table 1 of the suppoting schedule subject to the following conditions:

(a) regular premium policies in respect of retirement annuity policies: no renewal commission.;

(b) in respect of all other policies—

(i) for each separately identifiable constituent of the policy, the first year's commission of (3.25%*n*P), subject to a maximum of 85% of P, provided that payment of any part of such commission may be made conditional upon payment of the premium due in any later year and that in such event that part of the commission may be increased by not more than 15% per annum, compounded annually until payment of that part of the commission;

(ii) renewal commission, payable after the first year of the policy, the aggregate value of which, discounted at 15% per annum to the commencement of the second year, does not exceed 33 1/3% of the first year's commission, as determined in accordance with clause 11(b)(i) but excluding the proviso thereto; and

(c) sinking fund insurance business; provided such commission shall be payable only as and when the premium is received by the registered insurer.

12. Commission in respect of pension funds, retirement funds, group schemes and health insurance business shall be calculated as set out in Table 2 of the Supporting schedule subject to the condition:

in respect of the first scheme year after setting up a new scheme, commission additional to that determined in accordance with Table 2 but not exceeding N$3450 or 7.5% of annualised contributions for that scheme year linked to CPI, whichever is the lesser, may be paid, but such additional commission shall apply only when a scheme is first established.

Part II : Short-term Insurance

Limitation of remuneration in terms of short-term insurance

13. No remuneration in respect of short-term insurance business, directly or indirectly must be paid, allowed or given to, or accepted by or on behalf of, a registered insurance broker, Lloyd's intermediary or any other person as remuneration for rendering services as an insurance intermediary otherwise than by way of commission in monetary form.

14. The commission payable in respect of a short-term insurance policy, regardless of the number of insurance intermediaries involved, in total must not exceed the maximum rate of commission payable under this Standard.

15. No commission shall be paid, allowed, given or accepted on a short-term insurance policy before the date on which the premium in respect of which the commission is based, is paid to the registered insurer or to the Lloyd's underwriter concerned.

16. Commission for short term insurance policies shall be calculated as set out in Table 3 in supporting schedule.

17. If a premium or any part thereof is for any reason refunded by a registered insurer or by a Lloyd's underwriter, the commission paid, allowed or given in respect of that premium or part of that premium, if any, shall be refunded to the registered insurer or to the Lloyd's underwriter by the person to whom it was paid, allowed or given.

SUPPORTING SCHEDULE

The following tables attached forms part of this Standard—

TABLE 1				
Item	**Kind of policy or benefit component**	**Maximum Percentage**		
		Single Premium	Regular premium	
			Basic percentage	Limit:
	Column 1	Column 2	Column 3	Column 4
1	**Individual life (not funeral) policy**			
1.1	Not annuity	7.5% x P	3.0% x n x P	85%
1.2	Deferred annuity	1.5% x P	3.0% x n x P	75%
1.3	Immediate annuity			
1.3.1	not compulsory	1.5% x P	n/a	n/a
1.3.2	compulsory – not tied	1.5% x P	n/a	n/a
1.3.3	compulsory – tied	No commission		
2	**Individual/ group funeral policy**	2.5% x P	3.0% x n x P	85%
3	**Individual disability/ health policy**			
3.1	Term cover only	7.5% x P	3.0% x n x P	85%
3.2	Not term cover only	2.5% x P	3.0% x n x P	85%
4	**Group disability/health/life (not funeral) policy**			
4.1	Term cover	7.5% x P	3.0% x n x P	85%
4.2	Not term cover	2.5% x P		85%
5	**Fund policy**	Table 2	Table 2	n/a
6	**Individual/ group sinking fund insurance business**	2.5% x P	2.5% x P	85%

- A life policy that qualifies as a funeral policy may be dealt with under item 2.

TABLE 2		
Maximum Normal Commission		
Item	**Column 1**	**Column 2**
		To so much of the annualised premium that

	Apply the applicable percentage(s) below	Is more than N$	But not more than N$
1	7.5%	1	68,000
2	5.0%	68,001	115,000
3	3.0%	115,001	250,000
4	2.0%	250,001	770,000
5	1.0%	770,001	Unlimited

TABLE 3	
Maximum Normal Commission of the premium payable under a policy	
Item	
	Apply the applicable percentage(s) below
Vehicle policy	12.5%
Other policies other than a vehicle policy	20.0%