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LOCATION: 86/G12
EXTENSION: 6520
DATE: Tuesday, 23rd May 2000
REFERENCE: Y2312
SUBJECT: POLICYHOLDER PROTECTION RULES (SHORT TERM INSURANCE) 2000
SUBJECT AREA(S): South Africa
ATTACHMENTS: Appendix 1 – Policyholder Protection Rules
Appendix 2 – Definition of Close Corporations
ACTION POINTS: **Managing Agents, Brokers and Underwriters to note**
DEADLINE: **1st October 2000/1st November 2000**

The Policyholder Protection Rules (PPR) (see Appendix 1) contain the rules of disclosure that will need to be implemented by South African insurers (including Lloyd's underwriters and coverholders) and independent South African intermediaries (including open market correspondents).

The purposes of disclosures referred to in the Rules are to enable a policyholder to make informed decisions in regard to short-term insurance products. A "policyholder" for these purposes means any natural person, close corporation (see Appendix 2) or partnership who or which holds or is the prospective holder of a short-term insurance policy. **The rules do not apply to reinsurance policies or commercial entities (other than close corporations).**

The PPR are to be implemented in two stages. On 1st October 2000 the PPR will be brought in to force and will apply to business conducted with a natural person. On the 1st November 2000 this will be extended to include close corporations and partnerships. Whilst the aforementioned dates are the intended dates for implementation of the PPR, the Rules are currently awaiting official sign off from the Minister and therefore there may be a slight alteration in the implementation dates depending on when official sign off is received. However, the Act itself will not be altered and therefore its contents should be noted and appropriate actions taken to adhere to them.

The PPR are concerned with all insurers and those intermediaries that deal directly with policyholders. A South African coverholder operating via a broker or sub-agent is treated for the purposes of the Rules as if it were an insurer, whilst an open market correspondent or coverholder that deals directly with policyholders are both treated as independent intermediaries. The Rules therefore do not recognise the distinction drawn at Lloyd's between coverholders and open market correspondents, and underwriters will be in breach of the Rules where open market correspondents or coverholders dealing directly with policyholders fail to comply with the disclosure requirements.

Whilst it will be for each managing agency with insurance business interests in South Africa to review the potential impact of the PPR on its business, certain issues are common across the Lloyd's market:-

1. Both independent intermediaries and insurers in South Africa are subject to obligatory disclosure requirements relating to their own status, the consideration accruing to the independent intermediary, details of the policy involved and the relevant claims procedure. **The onus is on the independent intermediary or insurer to show that disclosure has been made in accordance with the Rules.**
2. These disclosure requirements will apply regardless of whether business is written through South African coverholders or through South African open market correspondents. Policyholders are not able to waive the benefit of the Rules.
3. Information can be verbally disclosed to the insured, but must be followed up in writing **within 30 days.**
4. A policyholder must be informed in writing, by either the independent intermediary or the insurer, if the policy is transferred to another insurer.
5. The level of commission earned by the intermediary dealing directly with the policyholder must be disclosed. Thus details of commissions earned by retail brokers will become available to policyholders. It is anticipated that such disclosure requirements will coincide with the deregulation of commission payments within the South African market.
6. The Registrar has, upon receipt of a complaint, wide powers to require any insurance party involved to take particular corrective steps in accordance with a specified timetable.
7. A statutory period of grace of not less than 15 days after the relevant due date for payment of premiums is imposed. An insurer may not repudiate a claim because a premium was not paid on the due date if payment was made during the period of grace, irrespective of whether the payment was made prior to the event giving rise to a claim or not.
8. **Restrictions exist in relation to the termination of an agreement between an insurer and or independent intermediary, until policyholders dealing through the independent intermediary concerned are notified of that termination.**

8. Both insurers and independent intermediaries are required to put in place monitoring systems to measure compliance with the Rules within six months of their effective date.

The Financial Services Board are currently drafting the regulations to supplement the Act and the International Department and the Legal Services Department are in consultation with them to ensure that Lloyd's are represented appropriately within these regulations. Lloyd's is currently in the process of drafting an "explanatory note" in conjunction with FSB which would be incorporated into their guidelines with a view to clarifying the application of the new PPR in the context of Lloyd's.

If you have any questions regarding the Policyholder Protection Rules, please contact Maxine Hooper, International Department on extension 6291 or Amit Khilosia, Lloyd's General Manager of Lloyd's South Africa on 00 27 11 884 0486.

This bulletin is being sent to all compliance officers, managing agents, active underwriters, brokers and market associations.

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