

CHAPTER 1

LONG TERM INDUSTRY BODIES AFFECTING THE LIFE INTERMEDIARY



Learning Outcomes

When you have completed this chapter you will be able to

- list the industry bodies that affect the life intermediary;
- describe, in general terms, how the industry bodies that affect the life intermediary are structured;
- explain the main purpose of each of the industry bodies that affect the life intermediary;
- give a detailed description of the personal achievement goals that the life intermediary can strive towards.

One of the important things that have come out of the introduction of two separate Acts for long term (life) and short term insurance is that we are no longer to differentiate between the terms insurance and assurance.

In future all insurance business, whether it be life and pensions business (long term), or one of the short term classes of business like fire, accident, theft, should use the name insurance, using long term or short term where differentiation is needed.

1.1 THE FINANCIAL SERVICES BOARD

The Financial Services Board (FSB) is an independent body that supervises institutions and services in terms of 13 Parliamentary Acts, which entrust regulatory functions to the Registrar of Long and Short term Insurance, Friendly Societies, Pension Funds, Unit Trust Companies, Stock Exchanges and Financial Markets in South Africa. These functions rest in the office of the Executive Officer, acting with other members of the executive and heads of the various departments.

The FSB is also responsible for the financial supervision of the Road Accident Fund. The FSB is controlled by a board appointed by the State President and has a Chief Executive Officer, who acts as Registrar, his deputies and the chief actuary. The Board reports to the Minister of Finance.

The Executive Officer has wide regulatory powers. Regulatory actions include the cancellation of authorisation to supply financial services. He has formal powers of investigation with criminal sanctions in the event of obstruction, and can apply to court for an interdict, or the curatorship of financial institutions, if necessary. He can, in certain circumstances, also apply for the winding up or placing under judicial management of certain financial institutions, such as insurers and pension funds. The FSB must also be informed of any staff changes within the executive of insurance companies.

The FSB makes use of a policy board appointed by the Minister of Finance, which acts in an advisory capacity. Provision is made for appeals against any decisions taken by the FSB through a properly structured appeal process. The appeal process includes notification of the appeal within 20 business days of the decision, accompanied by the required fee.

Legal practitioners may represent an aggrieved person(s) at the hearing before the three person appeal board, but no appeals against appeal board decisions are allowed.

Another vital function delegated to the FSB by legislation is the licensing, administration and control of all financial services providers in accordance with the terms and conditions of the Financial Advisory and Intermediary Services (FAIS) Act. The FSB is paid by levies charged to the financial institutions over which it exercises control. These levies are set by the FSB.

1.2 THE LIFE INSURANCE OMBUDSMAN

The office of the life insurance Ombudsman came into existence on 1 January 1985, and can be regarded as a useful alternative to resorting to legal processes. A complainant who is aggrieved by the Ombudsman's decision is still free to commence legal proceedings, if so required.

The Ombudsman takes no instructions from anyone regarding the existence of his authority. It is specifically provided that he exercises his authority in a "spirit of independence and taking considerations of equity into account".

The Ombudsman acts as a mediator or conciliator who endeavours to bring about a settlement. He has recently been granted the power to act as an arbitrator by the FSB. The Ombud is vested with the authority to issue binding decrees.

However, according to the former Ombudsman, Mr. Justice Kotze, who was appointed Ombudsman in September 1986, not one of the 31 insurers who support the scheme has ever declined to give effect to any advice regarding the disposal of a complaint. He expressed the view that "Conciliation, being the major tool used in the exercise of the Ombudsman's functions, frequently achieves a result favourable to insurer and insured alike".

The Ombudsman receives complaints submitted either verbally or in writing, and considers all which relate to a member of the consortium of insurers subscribing to the rules. After a complaint has been lodged, the Ombudsman calls on the insurer in question to reply and submit all relevant documentation. On receipt of the insurer's reply, the complainant is given an opportunity to replicate. According to Mr. Justice Kotze, telephonic hearings are seldom conducted, but can be arranged when necessary.

In cases where intricate medical, legal, actuarial and other problems arise during the consideration of complaints, the Ombudsman has the power to seek expert advice.



Note

For some years now, the Financial Services Board (FSB) had, in conjunction with the Department of Finance, been working on draft legislation to ensure proper control over the complaints procedures available to consumers who are unhappy with the services offered by any of the financial institutions under its jurisdiction. This legislation has been passed in the guise of the Financial Advisory and Intermediary Services (FAIS) Act. Notwithstanding this, the Pension Funds Act was amended some years ago to incorporate the terms and conditions under which the Pension Funds Adjudicator would operate. The FAIS Act has some impact on the role of the Adjudicator but does not replace the valuable role played by this office.

The life and short term insurance industries have also, for many years, had voluntary ombud schemes in place that have worked precisely in the manner contemplated in the legislation.

1.3 THE ASSOCIATION OF SAVINGS AND INVESTMENTS OF SOUTH AFRICA

ASISA represents the majority of South Africa's asset managers, collective investment scheme management companies, linked investment service providers, multi-managers and life insurance companies.

ASISA was formed in 2008 by members of the Association of Collective Investments (ACI), the Investment Management Association of SA (IMASA), the Linked Investment Service Providers Association (LIPSA) and the Life Office's Association (LOA). These associations have disbanded and all assets and activities have been transferred to ASISA.

The aims of this association are to:

- work towards greater level playing fields;
- create an environment enabling more holistic regulation;
- become more consumer focussed;
- collectively engage with government on policy issues.

1.4 THE INSURANCE INSTITUTE OF SOUTH AFRICA

In the past, the IISA has involved itself in training and education, but has reverted to being purely a professional body.

The Insurance Institute of South Africa has a code of conduct which applies to all its members. The code is detailed below.

The Insurance Institute of South Africa aims to promote the highest professional and ethical standards in the insurance business, both in Southern Africa and elsewhere.

The Council and membership of the Institute looks to its members to uphold these standards and the reputation of the Institute by:

1. Behaving with complete integrity in their professional lives.
2. Complying with the law and with the best principles and practice relating to insurance.
3. Conducting themselves in a professional and honourable manner towards those with whom they are in contact in business life.
4. Observing and applying the guide to good practice.

5. Giving due and proper consideration to the requirements and interest of clients and respecting the confidentiality of information.
6. Ensuring, if they are diploma holders, that advertisements and other public announcements with which their name or qualifications are associated are not such as might bring the institute into disrepute.
7. Ensuring, if they are not a diploma holder, that their membership of the Institute is not publicised in such a way as to imply the possession of a professional qualification.

1.5 THE FINANCIAL PLANNING INSTITUTE (FPI)

The Financial Planning Institute (FPI) was formed in 1982 as the Institute of Life and Pensions Advisors (ILPA). The object of the FPI is to be a representative body, whose aims are to test, develop and protect the competence of persons engaged in the life insurance, pensions and health-care industries, and the associated or related fields of personal financial planning, health-care and employee benefits consultancy.

The aim of the FPI is to promote and advance the education of all its members, by the continued development of the study and practice of all the relevant principles.

The FPI is a properly constituted professional body, and its formation represented one of the most interesting and certainly one of the most significant developments in the history of professionalism in the financial services industry in South Africa.

The Institute is supported by intermediaries from the life and employee benefits arena and also internal staff and financial advisors operating in the broader field. It also covers those involved in the provision of advice on health insurance, medical aids, and so on.

Administration is handled by a small secretariat under the guidance of the Chief Executive Officer. Management is via an elected council under the control of the President of the Institute.

FPI members must pass a range of advanced examinations in the field of financial planning and are subject to a strict code of conduct as outlined in the Generally Accepted Professional Practice outline, known as GAPP. A disciplinary committee operates to handle complaints regarding misconduct.

Local Institutes elect their own councils and put on various events from time to time, including assisting students with their examination preparation, and holding breakfast or morning seminars with one or more guest speakers.

The FPI successfully completed negotiations during 1999 with the Chartered Financial Planning organisation in the United States of America whereby all people who qualified with ILPA were allowed to convert their diploma and call themselves Chartered Financial Planners (CFP).

This is an internationally recognised qualification with recognition and chapters in over 30 different countries around the world. Affiliation with the CFP marque necessitated the name change of ILPA to FPI.

In 2001 the Association of Health Benefit Advisors opted to join forces with the FPI.

1.6 FINANCIAL INTERMEDIARIES ASSOCIATION (FIA)

The Financial Intermediaries Association of Southern Africa (FIA) represents more than 15 000 licensed financial services advisers throughout Southern Africa. The origins of the FIA date back more than 50 years, with the organisation having recently evolved into a single, united national body representing the bulk of active licensed intermediaries in South Africa's financial services industry.

The FIA's primary purpose is to represent, protect, promote and further the common interests of its members.

By belonging to the FIA, intermediaries can trust that they have the support of an influential organisation with the necessary stature and legitimacy to represent them at the highest levels of the industry, including regulatory bodies and industry associations.

The FIA enjoys a large and steady national membership comprising financial services intermediaries who cover the broad spectrum of financial planning.

All members of the FIA are authorised financial services providers or representatives of such providers. In terms of the FAIS Act our members must adhere to all the requirements prescribed by the Act and its Regulations.

In a challenging and ever changing environment the FIA plays a vital role in influencing regulators and legislators with the promulgation of insurance laws, and to facilitate them an in-depth understanding of this complex industry which includes intermediation.

The FIA's primary purpose is to represent, protect, promote and further the common interests of its members.

1.7 BLACK BROKERS ASSOCIATIONS

Black Insurance Professional of SA (BIPSA) was officially launched in November 2004, and have been formally incorporated as a Section 21 Company.

BIPSA's Executive Committee and its extended structures take the responsibility of contributing constructively to the transformation of the insurance industry seriously. Their vision is to create a demographically representative insurance industry both in leadership and ownership. Their mission is to accelerate transformation and development for black insurance professionals, and their values are:

- probity;
- independence;
- professionalism;
- service;
- equity;
- urgency; and
- entrepreneurship.

BIPSA has the following strategic pillars:

- development;
- entrepreneurship;
- transformation; and
- insurance education / awareness,

that form the objectives as a catalyst for transformation in the insurance industry.

BIPSA intends to introduce one of the largest, if not the largest, structured mentorship programmes in South Africa. Managers and leaders from across the industry are invited to act as mentors to learners from their own and/or other insurance companies.

BIPSA is hoping to ensure that black insurance professionals acquire the necessary skills and competencies to drive and influence both strategic and operational decision-making within the insurance industry.

Black Brokers Forum (BBF)

There is also an organisation known as the Black Brokers' Forum (BBF), which was formed early in 1999 with the aim of providing a home for previously disadvantaged brokers who were unable to meet the standards of existing broker organisations. It has since then opened its doors to any brokers, irrespective of colour, who are in this position.

Whilst the organisation still believes that it is in the best interests of its members to remain independent it has developed good working relations with other industry associations. The BBF has also made its voice heard by the authorities on a number of major issues affecting the intermediary.

Association of Black Insurance Brokers (ABIB)

The Association of Black Insurance Brokers (ABIB) also operates in the interest of black insurance brokers.

1.8 THE INSTITUTE OF RETIREMENT FUNDS (IRF)

This is a body set up to represent the retirement fund industry, largely made up of privately registered funds, state funds, insured funds run through the life insurers and brokers involved in the retirement fund field. The Institute has a small secretariat and fulfils a role in the dissemination of information regarding the industry as well as in lobbying on behalf of the industry.

Membership is via the fund rather than individuals, although the Institute does offer individual members a Diploma in Retirement Fund Management should they pass a series of examinations set and administered by Unisa.

The IRF concentrates on fund trustees and the administrators, insurers and benefit consultants.

1.9 THE PENSION LAWYERS ASSOCIATION

This body is made up of qualified legal people operating in the field of retirement funds.

The Institute of Pension Consultants and Administrators, an association formed by independent consultants and administrators in the Republic of South Africa which is directly concerned, through its own specialised full-time staff, in giving advice on schemes or funds or administering such schemes or funds, for the provision of Group Employee Benefit programmes merged into the PLA in 2007.

1.10 OTHER INTERMEDIARY GROUPS

1.10.1 AGENCY BODIES

Although company agents in South Africa are clearly limited in their structures in the legal sense there are examples of some different structures.

Franchise operations

Some of the larger life companies run their agency branches as separate business entities, or franchises, paying full broker commission scales but no other benefits. They leave it to the branch to arrange its own accommodation, administrative infrastructure and staff benefits. Such operations are still, however, agencies of the main employer.

Elite corps

Many of the larger companies also allow the elite of their agency force to operate under a separate banner, often in conjunction with a franchise agreement, either in part or in full.

In many cases agents working under such arrangements, although they are not able to obtain writing contracts with other companies, will form arrangements with agents of other companies or with brokers where some business may be placed elsewhere on a reciprocal basis or for an introduction fee where they believe that the interests of their client cannot be served through the products of their main employer.

1.11 OTHER RELATED BODIES

1.11.1 THE SOUTH AFRICAN REINSURANCE OFFICES ASSOCIATION (SAROA)

This is an association of companies that only transact reinsurance. A reinsurance company shares the risks that an insurance company accepts if the sum insured due if a claim becomes payable is more than the insurer can afford.

For this service the reinsurer shares in the premiums paid for the risk benefits provided. SAROA specifically considers insurance trends as applicable to reinsurers, as they tend to carry a greater portion of the larger risks than the direct writers of insurance do.

SAROA has since subsequently disbanded and the reinsurers now largely operate as a subsection of SAIA, the body representing short term insurers.

1.11.2 SOUTH AFRICAN SOCIETY OF INSURANCE MEDICAL UNDERWRITERS (SASIMU)

SASIMU is a society constituted with the express purpose of improving the communication between, and professionalism of, underwriters in the life insurance industry. The society was formed in 1992 and currently has branches in Johannesburg, Pretoria, Cape Town, Durban and Bloemfontein.

SASIMU also functions as the administrative body of the Institute of Life Underwriters. SASIMU actively encourages all life underwriters to achieve the status of a Fellow of the Institute of Life Underwriters.

The aims and objectives of SASIMU are:

- (i) to be a representative body for the protecting and maintaining of ethical standards of persons engaged in the assessment of life, disability, health or miscellaneous long term risks;
- (ii) to promote good fellowship amongst members of the society and other persons employed in the assessment of life, disability, health or miscellaneous long term risks;
- (iii) to disseminate technical knowledge and inculcate sound insurance risk assessment practices;
- (iv) to encourage the study of all matters relating to insurance and the assessment of risk and to recognise achievements and papers written by its members;
- (v) to arrange recognised examinations, specifically dealing with the assessment of life, disability, health or miscellaneous long term risks with the aim of promoting the achievement of the status of a Fellow of the Institute of Life Underwriters;
- (vi) to do such other lawful things as are incidental or conducive to the attainment of any or all of the above aims and objectives of the society.

1.11.3 ASSOCIATION OF INSURANCE MEDICAL OFFICERS OF SOUTH AFRICA (AIMOSA)

The undertaking of medical examinations by practitioners for life insurance purposes is a specialised field and, therefore, in order to assist medical practitioners in becoming better qualified to fulfil this role AIMOSA was formed.

1.11.4 THE PENSION FUNDS ADJUDICATOR

The office of the Pension Funds Adjudicator is a statutory position created in terms of the Pension Funds Act.

The Adjudicator is appointed by the Minister of Finance in consultation with the Policy Board at the FSB. The main objective of the office of the Adjudicator is to dispose of any complaint received in a procedurally fair, economical and expeditious manner.

In order to achieve this, the Adjudicator may:

- before investigating the claim, insist that the complainant first approach any organisation established for the purpose of resolving disputes in the pension fund industry that has been approved by the Registrar; or
- investigate the complaint and may make a decision that will have the same standing as an order of a court of law.

Should the complaint have been referred to an established organisation in the pension fund industry and the complainant not be satisfied with the result, the complainant still has the right to refer the complaint back to the Adjudicator.

1.11.5 THE OMBUD FOR FINANCIAL SERVICES PROVIDERS

The Office of the Ombud for Financial Services Providers (FAIS Ombud) serves as a dispute resolution system through which complaints against FSP's or representatives can be processed. The office has been set up in such a way that the constitutional requirements of independence and objectivity are achieved. The process of dealing with complaints commenced when the final deadline for the registration of financial service providers expired.

The Ombud considers and disposes of complaints in a procedurally fair, informal, economical and expeditious manner, with due regard to:

- the contractual and legal relationship between the complainant and the other party; and
- the provisions of the FAIS Act.

The Ombud is empowered to:

- award compensation for any financial prejudice or damage suffered by the complainant; and
- issue a direction to a Financial Services Provider to take appropriate steps in relation to the complaint.

It is important to remember that a determination by the Ombud has the effect of a civil judgment, and is executable through the ordinary judicial process. In addition to this, civil remedies are available in the form of class actions, and finally, criminal sanctioning is provided for through fines and terms of imprisonment.

1.11.6 BOARD OF HEALTHCARE FUNDERS

The vision of the BHF is a private healthcare funding system that ensures lifetime access to comprehensive and affordable healthcare for the family of the average working person. Since its inception, BHF's primary focus has been to transform the healthcare funding industry association in such a way as to set it on a path to being a truly representative body which speaks with one voice in an extremely diverse community. BHF is not only poised to play a critical role within the SADC community, but also to make a meaningful contribution into the global arena.

1.11.7 THE COUNCIL FOR MEDICAL SCHEMES

The Medical Schemes Act of 1998 re-created a juristic person called the Council for Medical Schemes.

The Council is made up of 15 members, appointed by the Minister of Health, who takes into account the interests of members and of medical schemes when considering the appointments. Council members are chosen for their expertise in law, accounting, medicine, actuarial science, economics and consumer affairs. They may be appointed on either a full-time or part-time capacity.

One of the Council members will be appointed by the Minister of Health as the Chairperson and the members of the Council will select the vice-chairperson from amongst their ranks.

The Minister of Health is also responsible for the appointment of a Registrar and one or more Deputy Registrars of Medical Schemes after consultation with the Council. The Registrar, once appointed, is the executive officer of the Council and in this capacity manages the affairs of the Council.

1.11.8 THE INSURANCE SECTOR EDUCATION AND TRAINING AUTHORITY (INSETA)

In March 2000 the Minister of Labour established twenty-five Sector Education and Training Authorities or SETAs which cover every sector in the South African economy. SETAs have replaced the thirty-three industry training boards.

The Insurance Sector Education and Training Authority or INSETA was established and represents the training and skills development interests of the sub-sectors within the insurance sector. These include:

- short and long term insurance;
- pension funding;
- risk management;
- unit trusts;
- health care benefits;
- funeral benefits;
- reinsurance; and
- financial intermediaries.

The functions and responsibilities of SETAs are defined in the Skills Development Act, 1998. SETAs have to:

- develop a sector skills plan;

- implement the sector skills plan;
- develop and administer learnerships;
- support the implementation of the National Qualifications Framework (NQF); and
- undertake quality assurance;
- disburse levies collected from employers in the sector they represent and report to the Minister of Labour and to the South African Qualifications Authority (SAQA).

QUESTIONS ON CHAPTER 1

Mental revision questions

Work through these mental revision questions as a test of your understanding of this chapter. We suggest that you attempt these before tackling the written questions. Please note that suggested answers are not provided as the chapter's text contains the answers.

1. Briefly explain the role of the Financial Services Board.
2. Who is the current Life Ombudsman?
3. Into what body did the LOA merge in 2008?
4. What are the different sub-sectors that are addressed by INSETA?

Written questions

Attempt these questions after you have completed this chapter and its mental revision questions. Suggested answers to these questions are at the end of this book.

1. Explain the role and functioning of the ASISA.
2. Outline the aims of SASIMU.
3. What is the mission of the FPI?