ASISA STANDARD ON UNCLAIMED ASSETS

1. Background

This Standard provides guidance for members on the treatment of unclaimed assets. The LOA Code on Unclaimed Assets was used as the basis to develop this Standard with the intention that it could be made applicable to the wider financial services industry, including the collective investment industry as well as pension funds.

ASISA members will be required, in their implementation of the Standard, to ensure that all outcomes are in accordance with the requirements of Treating Customers Fairly (TCF): right culture, targeting, information, advice, delivery as well as post-sale treatment.

2. Principles

- We are in the business of paying customers benefits in return for the premiums/contributions/investments that they have paid. Therefore the primary focus should be on increasing the level of tracing in order that the quantum of assets that may be considered as unclaimed is small
- We are looking for a Standard that provides a level playing field across the financial services industry and does not apply different rules to different financial services providers nor different product categories
- The customer's right to the unclaimed assets remains intact until the claim is paid, regardless of the timeframe
- There is a need to enhance disclosure to customers in respect of what happens in the event of assets being unclaimed
- There is a need to be clear on what principles are applied in determining the assumed investment return on unclaimed assets
- There is a need to define the customers' rights to unclaimed assets and the determination of the reserves backing unclaimed assets – to address any concerns regarding customers being treated fairly.

3. Tracing

- A "deemed" date is determined, appropriate to the product type e.g.
    - date that a risk claim is acknowledged,
    - date of maturity for fixed maturity contracts,

- cessation of premium payments in respect of a recurring premium open-ended contract
- age 100, if the other definitions of a deemed date have not yet become applicable

- A standard minimum tracing process is then applicable, within set timeframes
- The standard minimum tracing process is:
    - Within 6 months of deemed date
        - Attempt to contact customer to advise them of available benefits
        - If unsuccessful in contact, determine last known contact information and address of customer with reference to the company internal database
        - Compare internal database with an external database
    - Within 3 years after deemed date
        - Repeat the "Within 6 months of deemed date" process
        - If customer has been contacted and informed of claim within the 3 year period and they have not acted then no need to repeat the tracing process for the customer
    - Within 10 years after deemed date
        - Repeat the "3 years after deemed date" process
        - If the customer cannot be contacted then an external tracing company needs to be requested to trace the customer, unless an external tracing company has been utilized prior to this check
- As a principle, the financial services company must take all reasonable steps, including but not limited to a thorough search of all internal customer databases as well as utilizing the information and services provided by external databases or tracing agencies, where appropriate, to contact the customer or their beneficiaries
- As a principle, any reasonable direct administrative and tracing costs may be charged against the assets of the policyholder only if the first step of the minimum tracing process [within 6 months of the deemed date] proves unsuccessful
- As a principle, tracing of any contract may cease where the value of the policy is less than R1000 and the costs of tracing exceed the benefit of tracing.
- The financial services company needs to retain records that allow the tracing process to be audited and verified, by the company's internal compliance/audit functions.

4. Disclosure

New Business stage

- Policy documents and any other new business contract documentation need to be enhanced with more information on unpaid or unclaimed benefits
- It has to be clear that the customer needs to assume responsibility for ensuring that they keep their contact information up to date
- Disclosure must include details of what reasonable actions should be taken by the financial services company to trace clients where unclaimed assets exist
- Any direct administrative, tracing and management fees taken on unclaimed assets need to be disclosed, with a proviso that these may change over time and will be communicated over the life of the contract
- It is recommended that consent be included in this documentation to allow insurers to use policyholder information to facilitate tracing where required in the future – it will need to allow for sharing of personal information and ensure compliance with the Protection of Personal information legislation.

On-going – existing customers

- Annual communication to customers as well as maturity letters and any other on-going communication with customers need to be enhanced with more information on unclaimed assets
- The disclosure must highlight any contractual obligations on the part of the financial services provider and the customer in respect of unclaimed assets. Any relevant contractual issues (e.g. non-extendable maturity date) need to be highlighted and consequences of these contractual issues need to be explained
- The disclosure needs to make it clear that the customer must assume responsibility for ensuring that they keep their contact information up to date
- Where contractually possible, it is again recommended that some form of consent be obtained from customers to allow for sharing of personal information in the event that tracing becomes necessary in the future
- Disclosures need to include reference to investments and costs applicable to benefits that become unclaimed as well as reference to the ASISA standards applicable from time to time.

5. **Financial education**

- There should be a general public education drive to inform the public about unclaimed assets and what it means to them - driven both by ASISA as well as individual long term insurance members
- This should focus on alerting customers to the possibility of having assets due to them and how to go about trying to find out if there are any benefits due
- There must be a process/mechanism for customers to be able to update their personal contact information with financial services providers in response to this campaign
- The new revised ASISA Standard on Unclaimed Assets needs to be published and be available and accessible; not only through the ASISA portal but also through various financial services company's specific website(s).

6. **Investment of unclaimed assets and return on unclaimed assets**

Risk business

- Where the contract or material does not make any specific reference to the investment of the claim amount
    - The risk pool may be invested as the life company deems appropriate, as the company is carrying the risk
    - Provided that any investment does not put the ability of the company to pay benefits nor the financial soundness of the company at risk
- Where the contract does make specific reference to any interest/enhancement payable on the claim amount
    - The interest/enhancement must be reasonable and in accordance with what reasonable client expectation the company has or may have created (and must be greater than zero)
- Where the contract or material does not make any specific reference to any interest/enhancement payable on the claim amount
    - The claim amount will attract interest/enhancement
    - From the date that all requirements in order to confirm the validity and acceptance of the claim have been received
    - The rate payable needs to be reasonable in relation to after administration charge market related interest rates
- Following the implementation of the Standard all Risk contracts must make specific reference to the interest/enhancements payable on the claim amount.

Investment business

- Where the contract or material does not make any specific reference to the investment of the assets
    - The emphasis must be on meeting reasonable client benefit expectations across a range of market conditions – not one specific market condition (e.g. not only bear/bull market)
    - The company needs to consider what reasonable client expectation it has or may have created
- Where the client is carrying the investment risk
    - the assets must be invested taking cognizance of the reasonable client expectations
- Where the company is carrying the investment risk
    - the company may invest the assets as it deems appropriate, provided that it does not put the company's ability to meet its commitments at risk
    - the return that is provided to the client must take cognizance of the reasonable client expectations
    - where applicable, the return that is provided to the client must be in line with the company's published Principles and Practice of Financial Management (PPFM)
    - the company may invest the assets in any appropriate vehicle

- Following the implementation of the Standard all Risk contracts must make specific reference to
    - the investment of the claim amount/assets (where the client is carrying the investment risk) and
    - the interest/enhancements payable on the claim amount.

7. Reserving

- The customer's right to the unclaimed assets remains intact until the claim is paid, regardless of the timeframe
- The reserve that the financial services provider considers appropriate to back the unclaimed assets is to be determined by the individual financial services provider, subject to any statutory requirements that apply to such reserving
- When a financial services provider releases assets from the reserve backing an unclaimed asset these assets must be utilized for socially responsible activities, in line with the guidelines below, and not moved to the income statement
- The guidelines are:
    - The company may invest the assets in any appropriate vehicle within the context of South Africa's social development needs, such as:
        - Industry initiatives;
        - ESG items (high social impact with commercial return);
    - The company may not invest and /or spend the assets in the following manner:
        - Placed in the Income Statement (as an Income).

8. Reporting of Unclaimed Assets

- As the client's right to the unclaimed assets remains intact until the claim is paid, regardless of the timeframe, and not all financial services products have easily determinable claim dates (e.g. there is no obvious point at which an investment product that has an undefined maturity date, nor a bank account can be considered unclaimed) what should be reported in terms of unclaimed assets is not obvious
- It is proposed that 2 sets of figures are reported to ASISA, for the use of ASISA
    - Statistics on tracing activities conducted
    - The cases that have reached the deemed date and have not been traced within 3 years of the deemed date
- Statistics will be made available to the Financial Services Board on an annual basis

9. Implementation date

- The requirements of the Standard will be applicable as from **1 June 2013**

  i.e. implementation is on a prospective basis

  - This means that the minimum tracing process becomes applicable in cases where a deemed date exists prior to the implementation date – preferably looking back over a maximum period of 3 years
  - This means that disclosures at new business stage and for existing customers need to be implemented from the implementation date
  - This means that the current LOA Code on Unclaimed Assets remains applicable until the requirements of this Standard become applicable.

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