

MARKET BULLETIN

REF: Y4397

Title	Binding Authorities in the Republic of South Africa: Financial Services Board – Short-Term Insurance Act
Purpose	To inform managing agents of new regulatory reporting requirements in South Africa, and specify method of compliance.
Type	Event
From	Barney Smith, Delegated Authorities Department Performance Management Directorate 020 73276057 barney.smith@lloyds.com
Date	10 May 2010
Deadline	Immediate
Related links	

The South African Regulator (Financial Services Board) has issued a Directive, which is effect immediately, outlining several new requirements that will impact managing agents who lead binding authorities with South African domiciled coverholders.

They consist of enhanced, ongoing reporting requirements for all short-term insurers in the event of the termination of a binder agreement.

The specific reporting requirements are laid out in Appendix 1 of this bulletin. It is required that managing agents send completed returns, no later than fifty five days before the termination of binder agreements, to allow sufficient time for the Financial Services Board to be notified.

Completed returns should be forwarded by email to :

Mr Amit Khilosia
General Manager
Lloyd's South Africa
Email: amit@lloydssa.co.za

Lloyd's South Africa will forward all returns to the Financial Services Board on behalf of managing agents. Managing agents should also submit original hard copies of all returns to the Delegated Authorities Department at Lloyd's, for the attention of Mr Barney Smith.

In addition to this ongoing reporting requirement, the Financial Services Board requires Annexure A and/or Annexure B to be completed for all binders/policies terminated in the 2 years prior to 1st April 2010 – Appendix 2.

The deadline for submitting this prior year information to the Registrar's Office is 1st June 2010, and so in order to facilitate this, all such information should be submitted to Lloyd's South Africa by 15th May at the latest.



FINANCIAL SERVICES BOARD

REPUBLIC OF SOUTH AFRICA

SHORT-TERM INSURANCE ACT, 1998 (ACT 53 OF 1998)

Addressee:	Short-term insurers		File:	10/41/2/5/3 & 10/2/9	
Edition	Issue date	Effective date	Directive	Status	Withdrawal date
1 st	31 March 2010	1 April 2010	151.A.i (ST)	Final	-
2 nd	-	-	-	-	-
3 rd	-	-	-	-	-
Subject:	Reporting requirements prior to termination of binder agreements and related unilateral cancellation of short-term insurance policies				

1. Purpose

- 1.1. The purpose of this Directive is to enhance the reporting requirements for all short-term insurers in the event that they terminate binder agreements, including those cases where the binder termination results in a unilateral cancellation of a book of policies in terms of Rule 7.3 of the Policyholder Protection Rules (Short-term Insurance) (PPR) made under section 55 of the Short-term Insurance Act, 1998 (Act No. 53 of 1998) (STI Act).
- 1.2. Binder agreements in terms of this directive means an agreement whereby a registered short-term insurer allows a third party to do one or more of the following on behalf of that short-term insurer:
 - 1.2.1. Enter into, vary or renew a short-term policy, other than a short-term re-insurance policy;
 - 1.2.2. Determine the wording of a short-term policy;
 - 1.2.3. Determine premiums under a short-term policy;
 - 1.2.4. Determine the value of policy benefits under a short-term policy;
 - 1.2.5. Settle claims under a short-term policy.

2. Background

- 2.1. It has come to the attention of the Registrar that, on occasion, the termination of binder agreements by short-term insurers has led to a situation whereby an intermediary continues to collect premiums for its own account and settle claims, thereby rendering insurance business without being registered as a short-term insurer in contravention of section 7 of the STI Act, placing policyholders at risk.

Directive 151.A.i (ST) – Reporting requirements prior to termination of binder agreements and related unilateral cancellation of short-term insurance policies

- 2.2. Termination of the binder agreement by the short-term insurer is also commonly accompanied by a unilateral cancellation of the book of policies administered by the binder holder. In these instances it has also been found to be the case that the requirements of Rule 7.3 of the PPR are not properly complied with.
- 2.3. The enhanced reporting requirements outlined in this Directive are designed to improve the effectiveness of enforcement of compliance with Rule 7.3 of the PPR and to prevent the risk of unregistered insurance business following the termination of a binder agreement.

3. Reporting requirements

Short-term insurers are hereby directed under section 4(2) of the STI Act to furnish the Registrar with information from the effective date of this Directive-

- 3.1. prior to the termination of a binder agreement, as set out in Annexure "A".
- 3.2. prior to the unilateral cancellation of policies related to the termination of a binder agreement, as set out in Annexure "B".

4. Compliance

The failure to provide the specified information by or within the timeframes specified constitutes an offence under section 65 of the STI Act and a contravention of the Act that may be referred to the enforcement committee in accordance with the Financial Institutions (Protection of Funds) Act No. 28 of 2001.

5. Information sharing

This directive is available on the website (www.fsb.co.za) of the FSB. Short-term insurers must bring this directive to the attention of their appointed auditors.



REGISTRAR OF SHORT-TERM INSURANCE

Annexure A

FORM TO BE COMPLETED BY THE SHORT-TERM INSURER PRIOR TO THE TERMINATION OF A BINDER AGREEMENT

The Registrar of Short-term Insurance requires all short-term insurers to report the information requested in this Form prior to the termination of a binder agreement.

This Form is to be completed and submitted by the public officer of the registered short-term insurer to the Registrar's office-

- if terminated by the insurer, 40 days in advance of the actual date of termination of the binder agreement.
- if terminated by the binder holder, within 2 days after receiving the notice from the binder holder.

The completed Form must be addressed to the Insurance Compliance Department in the Registrar's Office as follows-

- insurance@fsb.co.za; or
- Financial Services Board, PO Box 35655, Menlo Park, Pretoria, 0102.

1. Registered name of short-term insurer:

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2. Name and contact details of the third party with whom the binder agreement will be terminated:

Name:

FAIS Licence no:

Email:

Registered address:

Tel no:

Fax no:

Cell no:

3. Is a written agreement in place with the binder holder?

YES

NO

4. If the answer to 3 above is no, please give full reasons:

.....

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5. Who gave notice and what was the reason?

.....

.....

6. Were all the requirements of the binder agreement adhered to by the binder holder?

YES	NO
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7. If the answer to 6 above is no, please give full reasons:

.....

8. What arrangement will be put in place with respect to the book of policies administered by the binder holder?

Policies will be unilaterally cancelled
(Please also complete Annexure B)

YES	NO
-----	----

Another intermediary will be mandated

YES	NO
-----	----

Administration will occur internally by the insurer (self-administration)

YES	NO
-----	----

Other arrangements
Please specify:

YES	NO
-----	----

.....

.....

Not applicable
Please give full details:

YES	NO
-----	----

.....

9. Who will inform the policyholders in writing of the changes?

(i) Insurer

YES	NO
-----	----

(ii) Binder holder

YES	NO
-----	----

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(iii) Another intermediary

YES

NO

(iii) Other arrangements

Please give full details:

YES

NO

.....
.....

10. Are there any outstanding premiums and/or claims? If so, what are the arrangements in this regard (please give full details):

.....
.....
.....
.....

11. Please provide this Office with any other information of importance:

.....

Name of Public Officer:

Signature of Public Officer:

Date:

Annexure B

FORM TO BE COMPLETED BY THE SHORT-TERM INSURER PRIOR TO THE UNILATERAL CANCELLATION OF POLICIES RELATED TO THE TERMINATION OF A BINDER AGREEMENT

The Registrar of Short-term Insurance requires all short-term insurers to provide the Registrar's office with the information required in this Form prior to the unilateral cancellation of policies related to the termination of a binder agreement.

This Form is to be completed and submitted by the public officer of the registered short-term insurer to the Registrar's office 30 days in advance of the issuing/publication of the Notice referred to in Rule 7.3 of the Policyholder Protection Rules (Short-term Insurance) (PPR). The document must be addressed to Insurance Compliance Department in the Registrar's Office as follows-

- insurance@fsb.co.za; or
- Financial Services Board, PO Box 35655, Menlo Park, Pretoria, 0102.

1. Registered name of short-term insurer:

.....

2. Please provide the reason(s) for the unilateral cancellation of the book of policies:

.....

3. (a) Who will give the notice to the policyholder(s) of the cancellation of the policies:

.....

(b) In what medium will the policyholders be notified?

(i) Direct to the policyholder
(see Questions 4 and 5)

YES	NO
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(ii) The insurer satisfying itself that notice has been
given by the independent intermediary
(see Question 5)

YES	NO
-----	----

(iii) Publication of such notice in two editions of a newspaper
(see Question 6)

YES	NO
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4. If necessary, provide the date on which the intermediary must provide the short-term insurer with all information on the policies in order for the short-term insurer to give notice to policyholders if Rule 7(3)(b)(i) of the PPR is applicable? (Refer to item 3(b)(i) above)

Directive 151.A.i (ST) – Reporting requirements prior to termination of binder agreements and related unilateral cancellation of short-term insurance policies

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5. Attach a copy of the draft notice of unilateral cancellation to be issued to policyholders by either the insurer or independent intermediary (on behalf of the insurer).

.....

6. Attach a copy of the draft notification to be published in the newspaper, if applicable. In the event that Rule 7.3(b)(iii) of the PPR is applicable, also provide names of the newspapers in which the notification will be published. (Refer to item 3(b)(iii) above).

.....

7. If you know the name(s) of the next insurer(s) that will underwrite the book of policies, please provide the name(s).

.....

8. Please provide this Office with any other information of importance:

.....

.....

.....

Name of Public Officer:

Signature of Public Officer:

Date:

INFORMATION LETTER
FINANCIAL SERVICES BOARD
REPUBLIC OF SOUTH AFRICA



SHORT-TERM INSURANCE ACT, 1998 (ACT 53 OF 1998)

Addressee:	Short-term insurers	File:	10/41/2/5/3 & 10/2/9
Issue date	Reply date	Info letter	Status
31 March 2009	1 June 2010	1/2010 (ST)	Issued
Subject:	Request for information on past termination of binder agreements and related unilateral cancellation of short-term insurance policies		

1. Purpose

- 1.1. The purpose of this Information letter is to collate information from all short-term insurers where they have terminated binder agreements and/or unilaterally cancelled a related book of policies in terms of Rule 7.3 of the Policyholder Protection Rules (Short-term Insurance) (PPR) made under section 55 of the Short-term Insurance Act, 1998 (Act No. 53 of 1998) (STI Act).
- 1.2. Binder agreements in terms of this Information letter means an agreement whereby a registered short-term insurer allows a third party to do one or more of the following on behalf of that short-term insurer:
 - 1.2.1. Enter into, vary or renew a short-term policy, other than a short-term re-insurance policy;
 - 1.2.2. Determine the wording of a short-term policy;
 - 1.2.3. Determine premiums under a short-term policy;
 - 1.2.4. Determine the value of policy benefits under a short-term policy;
 - 1.2.5. Settle claims under a short-term policy.

2. Background

This Information letter is issued in conjunction with Directive 151.A.i (ST) of 29 March 2010. The information called for in this Information letter will assist the Registrar's Office in monitoring compliance with Rule 7.3 of the PPR and to deal with unregistered insurance business that followed the termination of a binder agreement and related unilateral cancellation of policies.

Information letter 1/2010 – Request for information on past termination of binder agreements and related unilateral cancellation of short-term insurance policies

3. Requested information

Short-term insurers are required under section 4(2) of the STI Act to furnish the Registrar with information on binder agreements and related unilateral cancellation of policies that were terminated/cancelled during the two years immediately preceding 1 April 2010, as set out in Annexures "A" and "B", respectively.

The Public Officer must submit the information to the Registrar's Office as follows by 1 June 2010:

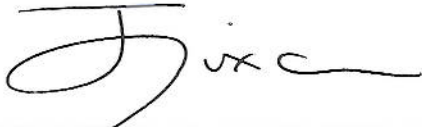
- insurance@fsb.co.za; or
- Financial Services Board, PO Box 35655, Menlo Park, Pretoria, 0102.

4. Compliance

The failure to provide the specified information by or within the timeframes specified constitutes an offence under section 65 of the STI Act and a contravention of the Act that may be referred to the enforcement committee in accordance with the Financial Institutions (Protection of Funds) Act No. 28 of 2001.

5. Information sharing

This Information letter is available on the website (www.fsb.co.za) of the FSB. Short-term insurers must bring this Information letter to the attention of their appointed auditors.



REGISTRAR OF SHORT-TERM INSURANCE

Annexure A

FORM TO BE COMPLETED BY THE SHORT-TERM INSURER FOR BINDER AGREEMENTS THAT WERE TERMINATED

The Registrar of Short-term Insurance requires all short-term insurers to provide the Registrar's Office with the information required in this Form on binder agreements that were terminated during the two years immediately preceding 1 April 2010.

This Form is to be completed and submitted by the public officer of the registered short-term insurer to the Insurance Compliance Department in the Registrar's Office as follows by 1 June 2010. Please complete the Form for each binder agreement that was terminated:

- insurance@fsb.co.za; or
- Financial Services Board, PO Box 35655, Menlo Park, Pretoria, 0102.

1. Registered name of short-term insurer:

.....

2. Name and contact details of the third party with whom the binder agreement was terminated:

Name:

FAIS Licence no:

Email:.....

Registered address:

Tel no:

Fax no:

Cell no:

3. Was a written agreement in place with the binder holder?

YES

NO

4. If the answer to 3 above is no, please give full reasons:

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5. Was the agreement terminated on a mutually agreed basis?

YES

NO

Please state the effective date on which the agreement was terminated:

.....

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6. Were all the requirements of the binder agreement adhered to by both parties?

YES

NO

7. If the answer to 6 above is no, please give full reasons:

.....

8. What arrangement was put in place with respect to the book of policies administered by the binder holder?

Policies were unilaterally cancelled
(Please also complete Annexure B)

YES

NO

Another intermediary was mandated

YES

NO

Administration occurred internally by the insurer (self-administration)

YES

NO

Other arrangements

YES

NO

Please specify:

.....

.....

Not applicable

YES

NO

Please give full details:

.....

9. Who informed the policyholders in writing of the changes?

(i) Insurer

YES

NO

(ii) Binder holder

YES

NO

(iii) Another intermediary

YES

NO

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(iii) Other arrangements
Please give full details:

YES

NO

.....
.....

10. Were, or are there any outstanding premiums and/or claims? If so, what were or are the arrangements in this regard (please give full details):

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.....
.....
.....

11. Please provide this Office with any other information of importance:

.....
.....
.....

Name of Public Officer:

Signature of Public Officer:

Date:

Annexure B

FORM TO BE COMPLETED BY THE SHORT-TERM INSURER FOR POLICIES RELATED TO THE TERMINATION OF A BINDER AGREEMENT THAT WERE UNILATERALLY CANCELLED

The Registrar of Short-term Insurance requires all short-term insurers to provide the Registrar's office with the information required in this Form for policies related to the termination of a binder agreement that were unilaterally cancelled during the two years immediately preceding 1 April 2010.

This Form is to be completed and submitted by the public officer of the registered short-term insurer to the Insurance Compliance Department in the Registrar's Office as follows by 1 June 2010. Please complete the Form for each book of policies that was cancelled:

- insurance@fsb.co.za; or
- Financial Services Board, PO Box 35655, Menlo Park, Pretoria, 0102.

1. Registered name of short-term insurer:

.....

2. Please provide the reason(s) for the unilateral cancellation of the book of policies and state the effective date on which the book was cancelled:

.....

3. (a) Who gave the notice to the policyholder(s) of the cancellation of the policies:

.....

(b) In what medium was the policyholders notified?

(i) Direct to the policyholder
(see Questions 4 and 5)

YES	NO
-----	----

(ii) The insurer satisfying itself that notice was
given by the independent intermediary
(see Question 5)

YES	NO
-----	----

(iii) Publication of such notice in two editions of a newspaper
(see Question 6)

YES	NO
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4. If necessary, provide the date on which the intermediary provided the short-term insurer with all information on the policies in order for the short-term insurer to have given notice to policyholders if Rule 7(3)(b)(i) of the PPR was applicable? (Refer to item 3(b)(i) above)

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Information letter 1/2010 – Request for information on past termination of binder agreements and related unilateral cancellation of short-term insurance policies
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5. Attach a copy of the notice of unilateral cancellation issued to policyholders by either the insurer or independent intermediary (on behalf of the insurer).

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6. Attach a copy of the notification that was published in the newspaper, if applicable. In the event that Rule 7.3(b)(iii) of the PPR was applicable, also provide names of the newspapers in which the notification was published. (Refer to item 3(b)(iii) above).

.....

7. If you know the name(s) of the next insurer(s) that underwrote the book of policies, please provide the name(s).

.....

8. Please provide this Office with any other information of importance:

.....

Name of Public Officer:

Signature of Public Officer:

Date: