

Is lockdown bringing out the best in SA insurers?

In the weeks since South Africa's Covid-19 lockdown started, local insurers appear to be embracing the Treating Customers Fairly (TCF) principles even more so than required by law under normal conditions.



Christine Rodrigues, partner and insurance law specialist Bowmans

Sustaining this could stand the industry in good stead when the next round of regulatory reform is considered, says Christine Rodrigues, partner and insurance law specialist at Bowmans. "At this point, it seems that South African insurers are practising TCF as best they can. 'Locally, we have seen many insurers encouraging people to claim under their policies, and reducing excesses if claims are made within between April and June 2020. Some insurers have extended financial assistance to their suppliers, especially those that are small to medium businesses and meet the turnover threshold of R2m a year."

She says South African insurers appear to have aligned themselves with the national priority of minimising the spread of Covid-19 so that the pandemic can be halted sooner rather than later.

"This is not to say that the insurance industry itself has no exposure to the pandemic. The International Association of Insurance Supervisors (IAIS), of which South Africa is a member, has recognised that insurers globally are substantially exposed. This exposure is not only in terms of increased capital requirements, with investments in assets being affected, but also in terms of more claims being required to be settled."

However, the insurance sector should weather the storm thanks to the stricter measures put in place after the financial crisis that lasted from 2007 to 2012, to protect policyholders and maintain financial stability.

"But just as the global financial crisis triggered the most recent wave of regulatory regime reform, it seems that the Covid-19 pandemic may be the spark for further reform in the future," says Rodrigues.

Losses and claims will dictate change

"The IAIS has already indicated it will be using the framework it has developed over the last couple of years to assess the impact of Covid-19 on the global sector. Any regulatory reform will therefore be influenced by the losses and claims sustained globally."

While it is impossible to predict the extent of those losses and claims, one thing is certain, she says. "How insurers deal with claims and consumers during this period will have an influence on whether tighter regulatory reforms are required. "

Rodrigues says international insurers are offering some of their customers payment holidays. "In South Africa, under the Policyholder Protection Rules, a grace period for premium payment is required by law, and the Financial Sector Conduct Authority has reminded insurers of this requirement and to ensure that the non-payment of premiums does not automatically result in a lapsed policy."

She also points out that the principles of TCF that bind all insurers do not mean the customer is always right. "Nor does TCF mean that each and every claim needs to be paid where the policy does not provide cover."

What it does mean is where the policy:

- does provide cover and a claim is made, it must be settled in a reasonable time period;
- does or does not provide any cover, insurers should be highlighting this to consumers; and
- is 'grey' in its terms and conditions, insurers should be making educated claims decisions. For example, if the claim is rejected, what is the impact on that person or business? "Perhaps a partial ex-gratia claim needs to be considered," says Rodrigues. "Obviously always ensuring that this does not result in a financial strain on the insurer which is to the detriment of the rest of its policyholders."

"TCF is being embraced in South Africa during this unsettling period. Only time will tell if Covid-19 will result in further regulatory reform. In the meantime, our priority must be to minimise the spread of this virus and hope that this crisis will soon come to an end," she says.

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