

PRUDENTIAL AUTHORITY COMMUNICATION

Constantia Insurance Company Limited (CICL): Treatment of Prime Living Cover Grow Policies and Living Legacy Policies as part of the conversion of the registration of CICL under the Short-term Insurance Act, 1998 (Act No. 53 of 1998) (STIA) to a licence under the Insurance Act, 2017 (Act No.18 of 2017) (Insurance Act)

1. Purpose

- 1.1 The purpose of this Communication is to publish the decision taken by the Prudential Authority (PA) to direct CICL, as part of its licence conversion, to deal with the Prime Living Cover Grow Policies and Living Legacy Policies, in respect of Sub-item 6(5) of Schedule 3 to the Insurance Act.

2. Background

- 2.1 During February 2020, CICL cancelled the Prime Living Cover Grow Policies and Living Legacy Policies with effect from 31 March 2020 by way of notice to policyholders.
- 2.2 Seventy-four policyholders challenged the validity of the cancellation of the Prime Living Cover Grow Policies and Living Legacy Policies and launched an urgent application to the High Court under Case No: 10068/2020.
- 2.3 On 26 June 2020 the High Court handed down judgment and found in favour of the applicants. The cancellation by CICL of the Prime Living Cover Grow Policies and Living Legacy Policies, was thus unlawful and is of no force and effect.
- 2.4 As the policies were thus declared to be extant, the PA then had to direct the insurer on how to deal with these policies with due consideration given to the interest of policyholders.

3. Insurance Act

- 3.1 The Insurance Act does not allow for an insurer to be licensed for a combination of what is defined (classified) as either life and non-life business within one licence, as an insurer will either be licensed as a life or non-life insurer, except for composite reinsurers and microinsurers.
- 3.2 The PA converted the registration of CICL to a non-life insurance licence in respect of the Insurance Act with effect from 1 July 2020.
- 3.3 The Prime Living Cover Grow Policies and Living Legacy Policies in the form underwritten in terms of CICL's registration under the STIA, do not meet the requirements of the new classes and sub-classes of policies set out in Table 2 of Schedule 2 to the Insurance Act, and thus these cannot be legally underwritten by a licenced non-life insurer.

- 3.4 Provision was made under sub-item 6(5) of Schedule 3 to the Insurance Act on how the PA should direct an insurer in the circumstances set out in paragraph 3.3 above upon conversion of the insurers' licence.
- 3.5 Sub-item 6(5) of Schedule 3 to the Insurance Act states the following:
"If the Prudential Authority does not convert the registration of a previously registered insurer to a licence to conduct insurance business in respect of a specific class or sub-class that is similar to the business that the previously registered insurer was registered for on the effective date, because –
 (a) ...;
 (b) *of the [restriction imposed on the business to either conduct a life insurance or a non-life insurance business], the Prudential Authority must direct the insurer to make arrangements to the satisfaction of the Prudential Authority to either:*
- (i) *discharge its obligations under all insurance policies entered into in respect of that class or sub-class before the conversion of that insurer's registration;*
 - (ii) *ensure the orderly resolution of that insurance business of the insurer;*
or
 - (iii) *transfer that insurance business to another insurer under section 50 of the Insurance Act by a specified date."*

4. Decision taken by the PA

- 4.1 In terms of sub-item 6(5)(b)(ii) of Schedule 3 of the Insurance Act, the PA directed CICL to ensure the orderly resolution of the Prime Living Cover Grow Policies and Living Legacy Policies in the following manner:
- 4.1.1 Each policyholder should be offered a replacement policy, replacing the Prime Living Cover Grow Policies and Living Legacy Policies with a personal accidental death policy.
- 4.1.2 Each policyholder should be offered discounted individual funeral products waiving waiting periods and pre-existing condition exclusions. Cover should be extended up to R30 000 for individuals and R50 000 for families.
- 4.2 CICL was further directed to communicate the decision taken by the PA to all affected policyholders and to ensure that the implementation thereof is finalised within a period of six months from the conversion date of 30 June 2020.
- 4.3 As stated above, it is illegal for CICL to continue underwriting the Prime Living Cover Grow and Living Legacy Policies in their current form. The PA is therefore satisfied that the directions issued to CICL, as outlined above, are consistent with the requirements of the Insurance Act, and take into account the interest of the policyholders.

5. Enquiries

- 5.1 Any enquiries relating to this Communication can be directed to the PA for the attention of Mabai Chuene at Mabai.Chuene@resbank.co.za

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