"ANNEXURE KM7"

3sixty LIFE

3SIXTY LIFE LIMITED
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23 March 2021

Financial Sector Conduct Authority
Riverwalk Office Park Block B
41 Matroosberg Road
Ashlea Gardens Extension 6
Pretoria
0081
By email : milton.sebaka@fsca.co.za

Cc : Prudential Authority
(Mvelase.Peter@resbank.co.za, Reuben.Mahlare@resbank.co.za)

EXEMPTION APPLICATION IN TERMS OF SECTION 281(1) OF THE FINANCIAL SECTOR REGULATION ACT FROM THE REQUIREMENTS OF RULE 11.6.5 (b) OF THE POLICYHOLDER PROTECTION RULES (2018)

Background

1. From the 31st of December 2020, 3Sixty Life Limited ("3Sixty Life" of "the Company") sent out communication to policyholders informing them of the premium increases that would be effective on the 1st of February 2021. The increases were determined following an actuarial review of the risk profile of each product book and were as follows:

Product	% of Premium Income	% Increase
All Nations	49%	28.5%
Doves Funeral Plans	16%	4.2%
NUMSA Compulsory	3%	28.5%
Various Group Schemes	1%	28.5%

2. Unfortunately, the communication was not clear to the policyholders on the alternatives available to them, such as a reduced sum assured for payment of the same premium.

3. A significant portion of the Company's policyholders are unionised in their workplaces and some of them have collectively taken a view to reject the premium increases and continue to pay the old premiums.

Impact of Covid-19

4. Excess deaths due to the Covid-19 pandemic have eroded the capital of the Company with the solvency capital adequacy ratio at 0.77 and 0.22 as at 30 September 2020 and 31 December 2020 respectively. The Prudential Authority has since put the Company under monthly reporting of its solvency capital position.

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5. The second wave of Covid-19 was even more severe. As at the end of January 2021, it was estimated that the Company is insolvent with a deficit of R35 million, which is expected to have increased to R60 million at the end of February 2021. The solvency position as at 28 February 2021 is yet to be determined. It is due to the Prudential Authority on 31 March 2021.

6. The insolvent position means that if the Company were to fail, there are policyholders who could be in jeopardy by the extent of the deficit of the assets to the liabilities. More details on this may be obtained from or provided by the Prudential Authority.

Requested exemption

7. The Company has decided, effective 3 March 2021, to pay a reduced sum assured on claims by those policyholders that have rejected the premium increase. This is significant in limiting further worsening of the solvency position of the Company.

8. The Company has acknowledged that whilst its communication to policyholders on the price increase provided adequate notice, the communication was not adequate as far as providing them with the required 31 days' notice in respect of the reduction policy benefits should policyholders keep paying the old premiums.

9. The Company therefore applies to be exempted from provisions of Rule 11.6.5(b) of the Policyholder Protection Rules ("PPRs") that provides that communication should be sent to the policyholder at least 31 days before any change can be implemented in respect of reduction of policy benefits for those policyholders rejecting the premium increase effective 1 February 2021.

Motivation for application

10. The main motive for this application is the need to avoid further worsening of the solvency position of the Company, and thus limit the risk posed by claims in respect of policies that have not paid the required premium.

11. Secondly, there are contesting rights of three categories of policyholders, which we describe as follows:

    a. The policyholders rejecting the premium increase, who needed to be given notice that their benefits would reduce if they continued paying the old premiums. This may be considered a technicality as it would be irrational for these policyholders to reject premium increases without implications for their policy benefits.

    b. The Company has liabilities in respect of policyholders with level premium, paid-up and with-profit policies. These policyholders have effectively paid upfront for benefits still due to them. The Company holds asset reserves to provide for these benefits in future. The benefits in respect of these policyholders will be further placed at risk if those rejecting to pay a fair premium for the insurance benefits can claim

benefits that are not in line with the premiums they pay. Given the Company's solvency position, such policyholders rejecting premium increases will be funded by the reserves held for another category of policyholders.

c. The policyholders that are paying the required new premiums would be treated unfairly if they were to get the same policy benefits as those that reject the premium increase. By not reducing the benefits of those rejecting the premium increases, the Company is at risk that those paying the appropriate premiums may in future require a refund if other policyholders were allowed to claim the same benefits for a lower premium.

12. Considering the needs of the above three category of policyholders, the Company is of the view that the requirement to provide appropriate notice period to policyholders rejecting the premium increase of implications for reduction in their policy benefits should not trump on the security of the benefits for other policyholders, nor should it result in unfair treatment to other policyholders.

13. The reduction in benefits has been proportionately determined to the required premium and therefore puts the policyholders in a neutral position (i.e. the reduction in policy benefits is not intended to be punitive to policyholders).

Product	**% Increase in Premium**	**Sum Assured if reject increase**
All Nations	28.5%	77.82%
Doves Funeral Plans	4.2%	95.96%
NUMSA Compulsory	28.5%	77.82%
Various Group Schemes	28.5%	77.82%

Affected policyholders

14. The Company's main premium collection methods are cash, debit orders and stop orders. Debit order policyholders do not seem to have a challenge in paying the new premiums. Appropriate premiums are collected in respect of cash paying policyholders, other than instances where policyholders do not have funds for the full new premium and promise to make the supplementary premium. A significant part of the policyholders not paying the appropriate premiums are those paying by stop order, through company payroll deductions.

15. It is estimated that 90 027 out of 156 033 policyholders (approximately 42%) are not complying with the premium increases. Of these the actual number of policyholders to be affected are those that may claim. Considering the claims in February 2021, 631 out of 2021 claims did not pay the appropriate premium. This translates to 30% of claiming policyholders in March 2021.

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Communication to affected policyholders

16. As part of the Company's need to restore solvency, the Company is contemplating another premium increase in anticipation of increased mortality risk of more devastating impact of Covid-19 in 2021. A single communication will be made to policyholders by 31 March 2021. It is through this communication that it will be clarified to those policyholders that rejected the 1 February 2021 increase that they may continue paying the old premiums, but their benefits would reduce effectively on 3 March 2021.

Conclusion

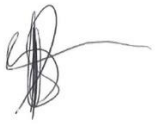
17. We hope both the Financial Sector Conduct Authority and Prudential Authority will share our view that the action to reduce benefit levels for those policyholders rejecting the premium increase, despite not having an adequate notice provided to them, is in the best interest of other policyholders that also need to be protected.

18. 3Sixty Life has considered and is of the view that the granting of the exemption is in line with section 281 sub-section (1) of the Financial Sector Regulation Act no. 9 of 2017, in that granting such an exemption will not:
    a. be contrary to the public interest; or
    b. prejudice the achievement of the objects of a financial sector law.

19. We are therefore hopeful that the Financial Sector Conduct Authority (FSCA) will favourably consider this application and grant us the exemption from the provisions of Rule 11.6.5 (b) of the PPRs in respect of a proportionate reduction in policy benefits to those policyholders rejecting the premium increases that were effective 1 February 2021.

I trust you find the above in order.

Kind regards



Leo Makgamathe
Chief Executive Officer
Date: 23 March 2021

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ENQUIRIES:	Mr Milton Sebaka	**D.DIALLING NO.:**	012 422 2875
OUR REF:	10/10/1/I127/1	**FAX:**	012 346 4631
DATE:	10 April 2021	**E-MAIL:**	Milton.Sebaka@fsca.co.za

Mr Leo Makgamathe
Chief Executive Officer
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Per e-mail: Leo.Makgamathe@3sixtylife.co.za

Dear Mr Makgamathe

EXEMPTION APPLICATION IN TERMS OF SECTION 281(1) OF THE FINANCIAL SECTOR REGULATION ACT FROM THE REQUIREMENTS OF RULE 11.6.5 (b) OF THE POLICYHOLDER PROTECTION RULES (PPRs)

1. Reference is made to your exemption application dated 23 March 2021, wherein 3Sixty Life requests to be exempted from the requirements of Rule 11.6.5 (b) of the PPRs issued under Section 62 of the Long-Term Insurance Act 52 of 1998 (LTIA). The exemption application is attached here for ease of reference as **Annexure A**.

2. The above-mentioned exemption application is still being considered by the Financial Sector Conduct Authority (the Authority). 3Sixty Life is therefore advised to comply with all the requirements of the LTIA and the PPRs until such time that it is advised of the outcome of the exemption application.

3. Any failure to comply with the requirements of the LTIA and the PPRs may lead to the Authority taking enforcement action as it deems necessary.

4. Kindly acknowledge receipt of this letter and respond by **14 April 2021**.

5. Should you have any queries kindly contact Mr Milton Sebaka using the details provided above.

Yours faithfully

Ms Jacky Huma
Head of Department: Micro & Access Product Institutions
On behalf of the Authority

Mr Makgompi Raphasha
Head of Department: Insurers & Retirement Fund Benefit Administrators
On behalf of the Authority

010-111

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ENQUIRIES:	Mr Milton Sebaka	**D.DIALLING NO.:**	012 422 2875
OUR REF:	10/10/1/I127/1	**FAX:**	012 346 4631
DATE:	16 August 2021	**E-MAIL:**	Milton.Sebaka@fsca.co.za

Mr Khandani Msibi
Acting Chief Executive Officer
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Dear Mr Msibi

Per e-mail: khandani.msibi@3sixtygsg.co.za
CC: Mvelase.Peter@resbank.co.za, Reuben.Mahlare@resbank.co.za)

EXEMPTION APPLICATION IN TERMS OF SECTION 281(1) OF THE FINANCIAL SECTOR REGULATION ACT (FSR ACT) FROM THE REQUIREMENTS OF RULE 11.6.5(b) OF THE POLICYHOLDER PROTECTION RULES (2018)

1. The exemption application received on 23 March 2021 from 3Sixty Life Limited ("3Sixty Life") refers.

2. **Summary of the exemption application**

   2.1 In the above-mentioned exemption application 3Sixty Life is requesting to be exempted from Rule 11.6.5(b) of the Policyholder Protection Rules (PPRs). In summary, the Rule requires that when insurers make certain changes to the terms and conditions of an insurance policy, more specifically changes related to those mentioned on Rule 11.6.4 of the PPRs, then that insurer should communicate those changes to policyholders in writing at least 31 days before the changes take effect.

2.2 3Sixty Life pointed out in the application that it recently increased premiums for certain products with effect from 1 February 2021. The policyholders affected by the premium increases were informed about the premium increases around 31 December 2020. 3Sixty Life also mentioned that some policyholders have not accepted the premium increases imposed by the insurer and they continue to pay the original premiums. It is stated in the application that "*90 027 out of 156 033 policyholders (approximately 42%) are not complying with the premium increases*". Because of this resistance from policyholders, the insurer has decided that at claims stage, it will reduce policy benefits of those individuals who continue to pay the original premiums.

2.3 The insurer acknowledges in the exemption application that the communication sent to policyholders informing them about the premium increases "*was not clear to the policyholders on the alternatives available to them, such as a reduced sum assured for payment of the same premium".* The insurer further states that "*the communication was not adequate as far as providing them with the required 31 days' notice in respect of the reduction policy benefits should policyholders keep paying the old premiums*". Based on this, the insurer acknowledges in the application that the communication sent to policyholders did not comply with Rule 11.6.5(b) of the PPRs.

2.4 When the Authority enquired whether 3Sixty Life had considered other alternatives that it could take to notify and obtain consensus from its policyholders regarding the changes to the original policies, the insurer indicated that although it had the capabilities to contact policyholders via its call centre, it was not confident regarding the quality of the policyholder telephone contact information. 3Sixty Life was not able to provide assurances to the Authority that it would be able to contact all its affected policyholders telephonically.

2.5 The Authority is also cognisant that the affected policies are funeral policies and there is a greater need to clearly explain the nature of these policy changes to this target market.

3. Applicable Legislative Framework

3.1 Rule 1.3(a) of the PPRs provides that:

"*An insurer must in any engagement with a policyholder, and in all communications and dealings with a policyholder, act honourably, professionally and with due regard to the fair treatment of the policyholder".*

3.2 Rule 11.6.5.(b) provides that:

"The details referred to in rule 11.6.4 must in any case other than as contemplated in paragraph (a), be provided to the policyholder at least 31 days before the change takes effect." (Rule 11.6.4 provides that the insurer must notify a policyholder of any change to the premium and charges payable under a policy).

3.3 Section 281 (1) (b) of the FSR Act states that:

"The responsible authority for a financial sector law may, in writing and with the concurrence of the other financial sector regulator, exempt any person or class of persons from a specified provision of the financial sector law, unless it considers that granting the exemption – may prejudice the achievement of the objects of a financial sector law".

3.4 The Authority, after having considered the exemption application is of the view that the policyholders were not treated fairly by the insurer. The fact that the insurer took a decision to reduce the policy benefits of the policyholders even though it was clear to the insurer that the communication did not comply with requirements of the PPRs, specifically Rule 11.6.5 (b) of the PPRs, indicates that the policyholders were treated unfairly. The unfair treatment of policyholders contravenes Rules 1.3 of the PPRs.

3.5 Section 144(1)(b) of the FSR Act provides that:

"The Financial Sector Conduct Authority may issue to a financial institution a written directive requiring the financial institution to take action specified in the directive if — the financial institution's treatment of its financial customers is such that the institution will not be able to comply with its obligations in relation to the fair treatment of financial customers;"

3.6 Section 144(1)(d)(i) provides that:

"The Financial Sector Conduct Authority may issue to a financial institution a written directive requiring the financial institution to take action specified in the directive if - the financial institution or a key person, representative or contractor of the financial institution … has contravened or is likely to contravene a financial sector law for which the Financial Sector Conduct Authority is the responsible authority;"

4. Intention to decline the exemption application

4.1 The Authority hereby informs 3Sixty Life of its intention to decline the exemption application for the following reasons:

4.1.1 The Authority is of the view that the exemption application from 3Sixty Life conflicts with the objectives of the PPRs and the Treating Customers Fairly principles that are contained in the PPRs.

4.1.2 The Authority is aware that 3Sixty Life is reducing the policy benefit for policyholders who did not accept the increased premiums even though the insurer by its own admission had not complied with the requirements of Rule 11.6.5 (b) of the PPRs. The Authority is very concerned about this approach and does not agree with it.

4.1.3 The Authority maintains that the failure by 3Sixty Life to comply with Rule 11.6.5 (b) at the minimum when it implemented the increased premiums means the insurer failed to act with due skill, care and diligence towards its affected policyholders.

5. Intention to direct the insurer

5.1 In addition to the decision outlined above in section 4, the Authority hereby notifies 3Sixty Life of its intention to issue a directive to the insurer in terms of Sections 144(1)(b) and 144(1)(d)(i) of the FSR Act. Details of the proposed directive are detailed below.

6. **Proposed Directive**

The Authority intends directing 3Sixty Life to:

6.1 ensure that policyholders who have been paid reduced policy benefits, since 1 February 2021 when the insurer implemented the premium increases, are traced and paid their full policy benefits.

6.2 either refund or credit the policyholders the difference between the original premium and increased premium. Thus, the policyholders whose policies have lapsed should be refunded and those policies which are still active should be credited the difference between the original premium and the increased premium.

6.3 immediately stop charging the increased premiums and ensure that the affected policyholders pay the original premiums until it can be proven to the Authority that the insurer fully complied with all relevant provisions for premium reviews.

6.4 ensure full compliance with Rules 11.6.4, 11.6.5, and other relevant provisions in the PPRs (including Rule 15) before any premium is increased or any policy benefit reduced.

7. **Representations from 3Sixty Life**

7.1 3Sixty Life is hereby invited to make written submissions to the Authority's intention to decline the exemption application as well as to the proposed directive by **19 August 2021**.

Yours faithfully

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KEDIBONE DIKOKWE

DIVISIONAL EXECUTIVE: CONDUCT OF BUSINESS SUPERVISION

010-116