



INSURANCE LAW ALERT

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The recent floods in KwaZulu-Natal have triggered many insurance claims against insurers for losses suffered in connection with perils insured under a contract of insurance.



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The recent floods in KwaZulu-Natal have triggered many insurance claims against insurers for losses suffered in connection with perils insured under a contract of insurance.

Like any other contract, a contract of insurance gives rise to obligations. The principal obligations in terms of a standard contract of insurance are the obligation of the insured to pay the premium, and the obligation of the insurer to indemnify the insured or to pay a sum of money in respect of an event of loss. The essential feature of any policy of insurance is that it holds policy obligations for the insurer with each insured event giving rise to a particular "claim" against the insurer.

These perils of insurance and the claims arising create financial obligations for insurers. The nature, extent and frequency of these claims may have a severe or materially adverse impact on an insurer.

The legislature introduced requirements in terms of the Insurance Act 18 of 2007 to ensure that insurers can manage, and subsequently fulfill, these financial obligations. In terms of the provisions of the Insurance Act, an insurer is obliged to, at all times, maintain its business in a financially sound condition by holding eligible own

funds that are at least equal to the minimum capital requirement or solvency capital requirement, whichever is the greater.

An insurer must also manage its liquidity risks to ensure that there is no liquidity shortfall which may result in it being unable to meet its financial obligations from time to time. For this purpose, an insurer must calculate and monitor its liquidity shortfall indicator. This indicator is designed to provide the Prudential Authority with the necessary guidance concerning the potential magnitude of liquidity risk an insurer may be exposed to under severe stress.

Insurers are required to assess their liquidity risk as part of their Own Risk and Solvency Assessment (ORSA). An ORSA must be performed annually, however, an insurer must also undertake an ORSA when its risk profile changes materially.

Insurers are therefore required to monitor and assess their financial soundness on an ongoing basis. The results of the ongoing assessments must be reported to the Prudential

Authority in line with the time frames required for financial reporting purposes.

The importance of insurers in the maintenance of a stable financial system cannot be overstated. Apart from managing insurance risks, they are also large-scale investors in financial markets. A failure on their part to manage their risks and report on them could have catastrophic consequences beyond the penal provisions of applicable legislation, including the risk of the instability of the financial system as a whole, especially in a changing global environment where natural disasters, pandemics, warfare and the like impact insurance businesses.

Insurers are therefore urged to closely monitor and put into place prescribed controls and policies with a view to monitoring overall risk appetite, ensuring that they have effective systems in place for risk management, maintaining financial soundness, and meeting reporting obligations.

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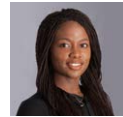
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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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