

CAN NEW ENTREPRENEURS THRIVE IN THE INSURANCE INDUSTRY?

Introduction

Generally, insurance is known as a way in which an individual minimizes the risk attached to their exposure to specific perils caused by various harms. The risk can be managed by taking up insurance with an insurance company. Starting up a company is always a challenging venture. However, some industries have had stringent requirements that have barred prospective entrepreneurs or have resulted in the establishment of an illegal or black market of insurance products. The latter may be seen through practices in the informal sector, where insurance practices lack regulation. There have been reports, especially pertaining to funeral insurance products, of fraudulent mismanagement of communal funds and a lack of formal law enforcement against uncooperative debtors especially if the collateral is trust. Lastly, as much as funeral parlours can be an intermediary between the informal and formal sector, the absence of effective government monitoring and avoidance of prudential requirements and compliance regulations places the consumer in a vulnerable position. Insurance has undoubtedly been one of the industries that have presented many challenges for prospective entrepreneurs and consumers. There is hope that the Insurance Act 18 of 2017 can establish a better precedent for prospective entrants into the insurance market and protect consumers.

What does the Insurance Act propose for new entrants?

The main aim of the Act is to facilitate financial inclusion by regulating the prudential requirements. This note highlights some of the Act's main features that ease prospective entrants' requirements or encourage informal insurance schemes to comply with formal sectorial requirements.

Firstly, in the past, licensing conditions favoured larger corporations and were primarily created with such entities in mind rather than Small-Medium Sized enterprises (SME). However, Section 26(1) (b) has brought forth further considerations when issuing or varying insurance licenses. The section states that the Prudential Authority has the power to vary licensing conditions where it is the interests of the public to do so, and such interests include the transformation of the insurance sector. This provision tacitly and indirectly endorses financial inclusion by taking public interests and transformation of the insurance sector into account. Public interests may include consideration of the fact that SMEs may not have the same financial backing and stability as large-sized corporations,

but this should not exclude them from operating in the insurance market. In addition, allowing SMEs to operate in this market will not only result in more engagement in the formal economy but will also transform the insurance sector and introduce new players in the insurance market that will cater for low-income individuals.

Section 25(10) lines up with the Act's purposes in that it seeks to foster financial inclusion and transformation of the insurance sector by facilitating various types of business by means of imposing differing conditions. Once again, differentiating kinds of insurance businesses by imposing different conditions which are tailored to meet the needs of SMEs allows micro-insurance corporations to operate and not be restrained or stopped by high costs of operating in the insurance industry. It is generally riskier for SMEs to enter into micro-insurance, one of the most prominent reasons include the inability of small corporations to pay out to a high number of simultaneous claims. The way in which the Act has mitigated such a risk is by permitting SME's to operate in cell structures.

Cell structures are defined in Section 1 of the Act; however, they may simply be defined as small corporations that constitute a single cell in a larger structure with other cells, owned by a large corporation with access to a large pool of finances. The operation of a cell structure means that where the SME is unable to pay-out all simultaneous claims to clients, they have the cell's financial backing to assist in paying out.

The rationale influencing operating in a cell structure is to prevent the SME from going bankrupt by customers' simultaneous claims, thus allowing small corporations to continue to operate in the sector. These structures protect consumers by ensuring that their cover is not compromised by other concurrent claims to enhance stability. Permitting micro-insurers to operate within cell structures allows the corporation to maintain its financial stability as required by chapter 6 of the Act. The importance of these proviso is that micro-insurance companies will not be excluded from the market due to their inability to meet larger companies' financial threshold as required by the Act.

Conclusion

What can be deduced is that the Act gives small businesses such as funeral parlours and stokvel clubs a chance to opt-in and be governed by the formal economy rules and regulations which could potentially improve the operation and practises of informal insurance providers for consumers and for the business owners at large. For information on how entrepreneurs can enter the insurance market or comply with the prudential requirements, please contact SchoemanLaw Inc today.