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FMA CIRCULAR

ON THE ASSUMED
INTEREST RATE FOR
HEALTH INSURANCE
SIMILAR TO LIFE
ASSURANCE (VAG 2016)

I. SCOPE OF APPLICATION

This circular is addressed to all insurance undertakings supervised by the Financial Market Authority (FMA) pursuant to Article 5 no. 1 VAG, which provide health insurance on the technical basis of life assurance.

This circular does not constitute a legal regulation. It is intended to serve as guidance and reflects the FMA's legal interpretation. No rights and obligations extending over and above the provisions of the law can be derived from this circular.

II. ASSUMED INTEREST RATE IN HEALTH INSURANCE

As a result of the continuing trend of falling capital market interest rates and under consideration of the prudent person principle pursuant to Article 150 para. 1 VAG in the case of newly concluded health insurance policies of a similar nature to life assurance and for new insured persons on existing group health insurance policies, from 1 January 2018 at the latest reserves for increasing age shall be calculated using an assumed interest rate of a maximum of 1%. For group health insurance tariffs, which will only be adjusted at a subsequent point in time, the reduction of the assumed interest rate shall take place at the latest at the qualifying date for adjusting these tariffs during the 2018 financial year.

Pursuant to Article 102 para. 2 VAG the premiums for newly concluded or changed insurance contracts must be sufficient, according to actuarially based assumptions, to guarantee ongoing compliance with the obligations under the insurance contracts, and in particular to allow the establishment of appropriate technical provisions. The FMA advises in this regard, that pursuant to Article 178f para. 2 of the Insurance Policy Act (VersVG - Versicherungsvertragsgesetz) the adjustment of premiums in health insurance to replace a reserve for increasing age that had already been insufficiently calculated at the time of conclusion of the insurance policy is not permissible. Increasing premiums due to inadequate capital income is therefore not justified.

The FMA advises that the insurance undertaking is responsible for determining the assumed interest rate in accordance with the prudent person principle. A calculation of the technical provision conducted in accordance with the prudent person principle represents a significant condition for ensuring that the benefits promised to the insured persons can be fulfilled. The insurance undertaking must perform the actuarial fixing of rates corresponding to the respective kind of insurance product. This includes the analysis and definition of risks as well as the selection of the calculation bases, including the assumed interest rate. A fair calculation of the premiums and benefits must be ensured based upon actuarial principles. It maybe therefore be necessary to not use the maximum permissible percentage when setting the assumed interest rate.

The assumed interest rate for calculating the technical provisions should at any rate be chosen and adapted such that sufficient account is taken of ongoing compliance with the obligations arising from the insurance contracts, even where capital markets develop in a negative manner. Health insurances undertakings are therefore obliged to also diligently monitor capital market risks, and as necessary to increase the allocations to the corresponding reserves for increasing age. In order to ensure the permanent fulfilment of obligations under the insurance contracts, in particular the establishment of appropriate technical provisions, the principle of the tariff being self-financing pursuant to Article 102 para. 2 VAG shall be taken into account when setting the interest rate. To be able to take the capital markets situation into account, requires taking a look into the future. The amount and probability of lower returns expected in the future are significant, and are dependent both on expectations as well as expected volatilities.

The FMA advises that in the case that the responsible actuary determines that the permanent fulfilment of obligations arising from the insurance contracts is endangered, than the responsible actuary shall report to the management board without delay. In the event that the management board does not take the responsible actuary's views into account, then the responsible actuary shall notify the FMA of this being the case without delay (Article 116 para. 4 VAG). Furthermore, insurance undertakings shall notify the FMA in writing without delay pursuant to Article 272 para. 2 VAG about any facts that may directly or indirectly threaten ongoing compliance with the obligations arising from the insurance contracts.