

BRIDGING THE GAP: THE ROLE OF MICRO-INSURANCE IN A COMPREHENSIVE SOCIAL- PROTECTION SYSTEM IN SOUTH AFRICA*

Letlhokwa George Mpedi
BJuris LLB LLM LLD
Associate Professor, University of Johannesburg

Daleen Millard
BJuris LLB LLM LLD
Associate Professor, University of Johannesburg

SUMMARY

Access to social protection interventions, such as social assistance, social insurance and private insurance, in South Africa is limited. For that reason, plugging the holes in the safety net is undoubtedly one of the most pressing challenges facing South Africa in its quest to design a comprehensive social protection system. The point is that vulnerable persons, just like any other persons, have to contend with social risks (for example, death, poor health, invalidity, *etcetera*). As a result, similarly to all other persons, they require protection against these risks. It is clear that the current social protection interventions (particularly social insurance, social assistance and private insurance) fail to protect every person in need of such protection adequately in South Africa. Thus, the contribution sets out to investigate the prospects of micro-insurance being used as an instrument to extend social protection coverage to the excluded and marginalized persons in South Africa.

1 INTRODUCTION

There are three major social protection¹ interventions in South Africa, that is, social assistance,² social insurance³ and private insurance.⁴ These

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¹ Social protection, according to the Asian Development Bank, consists of “policies and programmes designed to reduce poverty and vulnerability by promoting efficient labour markets, diminishing people’s exposure to risks, enhancing their capacity to protect themselves against hazards and interruption [or] loss of income” (Asian Development Bank <http://www.adb.org/SocialProtection/default.asp>).

interventions have a limited scope of coverage.⁵ The reasons for this state of affairs are manifold and the following rank supreme:

- (a) Social assistance: South Africa has one of the largest social-assistance programmes in Africa covering in excess of 13 million beneficiaries.⁶ Access to social assistance is limited in a number of ways. Firstly, the South African social-assistance system follows a categorical approach. That means one has to – in addition to other eligibility requirements – belong to a particular pre-identified category of persons (for example, children, persons with disabilities and elderly persons). Therefore, those needy persons who may comply with other qualifying requirements but not falling under any of these categories are excluded.⁷ Secondly, the applicant must pass the means test. The major challenge with the means test is that it has to be properly administered. If not, it could dissuade people from accessing the social-assistance benefits, discourage individuals from saving, and serve as a disincentive to work.⁸ Thirdly, prospective beneficiaries have to comply with the age requirement. For instance, the child support grant will, with effect from January 2010,

² The Committee of Inquiry into a Comprehensive System of Social Security for South Africa (*Transforming the Present – Protecting the Future: Consolidated Report* (2002) 36) defines “social assistance” as “state provided basic minimum protection to relieve poverty, essentially subject to qualifying criteria on a non-contributory basis”. The South Africa social-assistance programme is financed from the general government revenues. Several types of grants aimed at needy children (Child Support Grant, Care Dependency Grant and Foster Care Grant), people with disabilities (Disability Grant) and the aged (Old Age Grant and War Veterans Grant) are available. Apart from these grants, a social relief of distress may be payable to certain qualifying individuals.

³ Social insurance has been defined as a “mandatory contributory system of one kind or another, or regulated private-sector provision, concerned with the spreading of income over the life cycle or the pooling of risks” (Committee of Inquiry into a Comprehensive System of Social Security for South Africa *Transforming the Present – Protecting the Future: Consolidated Report* (2002) 36).

⁴ See, for a discussion on the difference between private insurance and social insurance as well as private and social insurance in South Africa, Olivier and Mpedi “Understanding Social Security” in Jordaan, Kalula and Strydom (eds) *Juta’s Pocket Companions* (2009) 9-13.

⁵ See, eg, Olivier and Kalula “Scope of coverage” in Olivier, Smit and Kalula (eds) *Social Security: A Legal Analysis* (2003) 123; and Mpedi *Pertinent Social Security Issues in South Africa* (Community Law Centre, University of the Western Cape (2008)) 22-34.

⁶ The total number of social grants recipients had grown from 10,738,757 beneficiaries at the end of January 2006 to 13,832,456 at the end of January 2010 (South African Social Security Agency Strategic Plan 2010/11 – 2012/13 (South African Social Security Agency (2010)) 19).

⁷ It is for this reason that it is often said that one must, among other requirements, be either young enough (see s 5 of the Social Assistance Act 13 of 2004) or old enough (see s 10 of the Social Assistance Act) or disabled enough (see s 9 of the Social Assistance Act) to qualify for one of the key social grants in South Africa. These social grants include the old age grant, child support grant, disability grant and care dependency grant.

⁸ Mpedi LG “Addressing the Social Security Needs of the Self-employed in South Africa: Prospects and Challenges” 2008 9 *ESR Review* 3 4. Also see National Treasury (Republic of South Africa) *Budget Review 2008* (National Treasury, Republic of South Africa (2008)) 94; Johnson and Williamson “Do Universal Non-contributory Old-age Pensions make Sense for Rural Areas in Low-income Countries?” 2006 59 *International Social Security Review* 47 53-55; Alcock *Understanding Poverty* 2ed (1997) 227-230; and TenBroek and Wilson “Public Assistance and Social Insurance – A Normative Evaluation” 1954 1 *UCLA Law Review* 237 265-266.

lapse when the child attains the age of 18 years.⁹ Prior to 1 January 2010, the child support grant was awarded to children up to their 15th birthday.¹⁰ This effectively marginalized indigent children above the age of 15 years.¹¹ As for the old-age grant, a female applicant must be not less than 60 years old to qualify. Until recently, male applicants had to be older than 65 years to qualify.¹²

- (b) Social insurance: A majority of social-insurance schemes in South Africa seem to have been developed with a formal sector employee and his/her family in mind. For instance, participation in social-insurance schemes (such as the unemployment insurance scheme and workers' compensation) depends largely on whether one fits within a rather limited definition of "employee" as contained in various social-insurance statutes.¹³ This is often problematic in a developing country such as South Africa where a majority of bread winners eke a living in the informal economy. The point is it results in the exclusion and marginalization of informal sector workers from social-insurance coverage. It is true that there are alternatives, such as voluntary coverage, which could be used to widen the scope of social-insurance coverage to these categories of workers. However, the low contributory capacity of informal sector workers, which is mostly caused by the meagre wages often paid and unreliable income generated in this sector, habitually prevents them for taking advantage of such alternatives.

⁹ Regulation 3 of the Social Assistance Act, 2004 Amendment: Regulations Relating to the Application for and Payment of Social Assistance and the Requirements or Conditions in respect of Eligibility for Social Assistance 193 of 12 March 2010.

¹⁰ See Regulation 6(4) of the Regulations: Application for and Payment of Social Assistance and the Requirements or Conditions in Respect of Eligibility for Social Assistance GG 31356 of 2008-08-22).

¹¹ The progressive extension of the child support grant to all children aged less than 18 years (see Regulation 2 of the Amendment: Regulations Relating to the Application for Payment of Social Assistance and the Requirements or Conditions in Respect of Eligibility for Social Assistance 1116 of 27 November 2009, Zuma J State of the Nation Address (11 February 2010); and Gordhan *Budget Speech 2010* (17 February 2010)), is in line with the recommendation by the Committee of Inquiry into a Comprehensive System of Social Security for South Africa (*Transforming the Present – Protecting the Future: Consolidated Report* (Committee of Inquiry into a Comprehensive System of Social Security for South Africa (2002)) 81) that the child support grant be provided to qualifying children up to the age of 18 years.

¹² The government has decreased the age requirement for men in phases as follows: from 65 years to 63 years in 2008, from 63 years to 61 years in 2009 and from 61 years to 60 in 2010 (see s 1 of the Social Assistance Amendment Act 6 of 2008). The process of equalizing the age of eligibility for the old-age grant between males and females at 60 years will conclude this year. It should be noted that prior to this process, males had to be 65 years of age and females 60 years in order to be eligible for the old-age grant. The High Court held in *Christian Roberts and Others v Minister of Social Development* (Case No 32838/05 (TPD), 17 March 2010) that this distinction did not infringe upon the right of elderly men to equality. Furthermore, it argued (par 39) that: "Courts should refrain from stepping into the legislative jurisdiction and create or amend statutes. It is certainly not its function to legislate, no matter how strong it feels or is predisposed to doing that. Courts must respect the separation of powers, at all times."

¹³ S 1 of the Unemployment Insurance Act 63 of 2001, *eg*, defines an employee as "any natural person who receives remuneration or to whom remuneration accrues in respect of services rendered or to be rendered by that person, but excludes any independent contractor".

(c) Private insurance: South Africa has a well-developed private insurance system. Private insurance is used largely on a voluntary basis by persons who can afford the premiums. There are commercial insurance products available which can, financial resources permitting, be used to cover life-cycle risks such as poor health, invalidity and old age.¹⁴ For the majority of the excluded and marginalized, access to this type of products is, for a variety of reasons, a flight of fancy. Firstly, large pockets of those excluded from the scope of coverage of the social assistance and social insurance schemes have unreliable and, in some instances, irregular incomes.¹⁵ Thus, the prospect of private insurance policy lapses is astronomical among the category of persons – particularly among those who eke a living in the informal sector.¹⁶ Commercial insurance products aside, there are employer-based private insurance schemes (such as medical-aid schemes and retirement funds). Nevertheless, these schemes are as rule established exclusively for the benefit of (certain) employees¹⁷ of a particular employer.¹⁸ Another point to be noted is that, employees' contributions are mainly subsidized by their employers.¹⁹ The potential of private insurance measures and, more specifically, micro-insurance as a tool to extend social protection are discussed in more detail in paragraphs 3 and 4.1.3 below.

With the preceding pronouncements in mind, mending the holes in the safety net is undoubtedly one of the most pressing challenges facing South Africa in its quest to craft a comprehensive social-protection system.²⁰ The point is that vulnerable persons, just like any other persons, have to contend with social risks (for example, death, poor health, invalidity, *etcetera*).²¹ As a result, similarly to all other persons, they require protection against these risks.²² It is clear that the current social-protection interventions (particularly social insurance, social assistance and private insurance) fail to (adequately)

¹⁴ Olivier and Mpedi in Jordaan *et al* (eds) *Juta's Pocket Companions* (2009) 9-10.

¹⁵ Mpedi LG 2008 9 *ESR Review* 3 4.

¹⁶ *Ibid.*

¹⁷ In some instances, only employees with a permanent employment status can participate in these schemes.

¹⁸ Mpedi LG 2008 9 *ESR Review* 3 4.

¹⁹ *Ibid.*

²⁰ Comprehensive social protection has been described by the Committee of Inquiry into a Comprehensive System of Social Security for South Africa as follows: "Comprehensive social protection for South Africa seeks to provide the basic means for all people living in the country to effectively participate and advance in social and economic life, and in turn to contribute to social and economic development. Comprehensive social protection is broader than the traditional concept of social security, and incorporates developmental strategies and programmes designed to ensure, collectively, at least a minimum acceptable living standard for all citizens. It embraces the traditional measures of social insurance, social assistance and social services, but goes beyond that to focus on causality through an integrated policy approach including many of the developmental initiatives undertaken by the State" (Committee of Inquiry into a Comprehensive System of Social Security for South Africa *Transforming the Present – Protecting the Future: Consolidated Report* (2002) 41).

²¹ Ahuja "Micro-insurance for the Poor: Policy Choices" 2003 38 *Economic and Political Weekly* 5034.

²² *Ibid.*

protect every person in need of such protection in South Africa. Thus, the article sets out to investigate the prospects of micro-insurance being used as an instrument to extend social-protection coverage to the excluded and marginalised persons in South Africa.

2 DEFINITIONAL AND CONCEPTUAL ISSUES

Several definitions of micro-insurance are identifiable. For instance, Churchill defines micro-insurance as “the protection of low-income people against specific perils in exchange for regular premium payments proportionate to the likelihood and cost of the risk involved”.²³ The National Treasury of South Africa, on the other hand, describes micro-insurance as “insurance that is *accessed by or accessible to the low-income population*, potentially provided by a variety of different providers and managed in accordance with generally accepted insurance practices” (italics in the original).²⁴ A micro-insurance scheme is defined as a “scheme that uses, among others, an insurance mechanism whose beneficiaries are (at least in part) people excluded from formal social protection schemes, in particular informal economy workers and their families”.²⁵ As apparent from the preceding definitions, micro-insurance is intended at the low-income segment of the population.²⁶ This consists mainly of the informal-sector workers.

3 THE (POTENTIAL) ROLE OF MICRO-INSURANCE: A SOCIAL PROTECTION PERSPECTIVE

3.1 Micro-insurance: A cursory overview

Micro-insurance is generally regarded as a phenomenon commonly found in developing countries.²⁷ Churchill explains that this is the case because in developing countries, insurance penetration is low and government social-protection schemes only cover a small minority of citizens. In an attempt to fill the gap, micro-insurance emerged from three different entry points. The first one is where low-income persons formed their own mutual-benefit associations and burial societies. Churchill uses the example of the Great North Burial Society in South Africa, a registered friendly society which had more than 20 000 lives covered in 2007.²⁸

Second, development agencies such as the International Labour Organisation have encouraged those who are excluded from commercial and social insurance to create risk-pooling mechanisms.²⁹ The goal of these

²³ Churchill “What is Insurance for the Poor?” in Churchill (ed) *Protecting the Poor: A Microinsurance Compendium* (International Labour Organisation (2006)) 12.

²⁴ National Treasury (South Africa) *The Future of Micro-Insurance Regulation in South Africa* (National Treasury (South Africa) (2008)) xii (hereinafter “the Discussion Paper”).

²⁵ International Labour Office “Global Information on Micro-insurance” http://www.microinsurance.org/gimi/ShowFAQ.do?sid=24#a31_170.

²⁶ Churchill 12.

²⁷ Churchill 403.

²⁸ Churchill 403-404.

²⁹ Churchill 403.

donor-led initiatives is then to link these new schemes to government support, thereby facilitating a redistribution of resources from the rich to the poor.³⁰ The difference between the first and the second entry point is that the second is driven by a donor who has identified a community in need, whereas in the case of the first, the initiative comes from communities who have identified a common risk and who invented ways in which to deal with those risks. Third, insurers have identified this large group of low-income earners as a new market opportunity.³¹

It is therefore evident from this brief overview that micro-insurance is still in its infancy. With this in mind, the question is then which objectives need to be focused on when embarking on a legislative process to use micro-insurance as an instrument to extend social-protection coverage. The next paragraph takes a look at these objectives.

3 2 Policy objectives for a micro-insurance framework

According to the Discussion Paper,³² a number of policy objectives have been identified which are relevant to the discussion on financial development, namely: financial inclusion; competition and market efficiency; financial-sector development; stability; consumer protection; empowerment; and the development of small and medium enterprises.³³

Of course, financial inclusion as the first objective is achieved by amongst other things supplying amnesty to illegal participants in the industry, consumer education programmes as well as clear and simplified regulatory structures, thereby implementing the ideals of the Financial Sector Charter.³⁴ As far as competition and market efficiency is concerned, the discussion document states that a wide range of service providers will be encouraged to compete in providing their products to members of the public.³⁵ The idea is to avoid regulatory barriers that prevent the use of new business models and technology such as the use of mobile-phone networks for premium collections³⁶ and to invite new insurers such as co-operatives to compete in the micro-insurance industry.³⁷

Financial sector development is closely related to market efficiency, as it aims at providing a clear regulatory framework without stifling innovation.³⁸ Any new legislation should aim at stability and creating trust in the insurance

³⁰ *Ibid.*

³¹ *Ibid.*

³² 16-17.

³³ Discussion Paper 17.

³⁴ Discussion Paper 16. The Financial Sector Charter came into effect in January 2004. This charter is the product of a multilateral social dialogue between government, business, labour and community constituencies <http://www.fscharter.co.za/pa>.

³⁵ Discussion Paper 17.

³⁶ Discussion Paper 16.

³⁷ Discussion Paper 17. A co-operative insurer is an insurer who operates as a co-operative in terms of the stipulations of the Co-operatives Act 14 of 2005. According to s 1 of this act, a co-operative is defined as "an autonomous association of persons united voluntarily to meet their common economic and social needs and aspirations through a jointly owned and democratically controlled enterprise organised and operated on co-operative principles".

³⁸ Discussion Paper 17.

industry. Stability and consumer protection also go hand in hand, and the real challenge will be to ensure that even where the regulatory framework is far more flexible for micro-insurance, poor consumers have the assurance that their interests are protected.

Empowerment as an object refers not only to the development of black enterprises in the form of co-operative insurers, but also to empower low-income households through new, affordable financial products.³⁹ Finally, where empowerment as an objective is aimed at service providers as well as consumers, small and medium enterprises development purely aims at the creation of room in the market for smaller insurers and intermediaries to participate in the insurance sector.⁴⁰

From looking at these seemingly irreconcilable objectives, one can almost understand why commercial insurers have failed to provide affordable, well-targeted, useful and consumer-friendly social insurance products to the poor. The next two paragraphs discuss the *status quo* of (social) insurance services to the poor and suggest ideas as to how this situation can be improved.

3 3 Risks (to be) covered

A risk in insurance terms simply denotes the chance that an uncertain event or peril may occur.⁴¹ How to manage risks that occur in daily life could be viewed as a matter of (social) policy.⁴² Government may decide to manage a risk such as unemployment by means of a statute that provides protection against unemployment. Other risks fall squarely within the private sphere and here, government may regulate a particular industry such as the insurance industry or leave the management of the risk in the discretion of the individual with no regulation or interference. In the latter instance one

³⁹ *Ibid.*

⁴⁰ *Ibid.* On empowerment, Small and Medium Enterprise (SME) development and consumer protection, the Discussion Paper (18) states: "As noted under the objective of stability, illegal insurance provision by, for example, funeral parlours is of concern to the [Financial Services Board (FSB)]. However, if the current insurance regulation is enforced, many of these funeral parlours may be forced to close as they will be unable to comply with requirements and will face difficulty in legalising their insurance portfolios. While this may be required from stability and consumer protection points of view, these funeral parlours also represent a large number of black-owned SMEs who serve a very large proportion of the funeral insurance market (dominated by lower-income black households). By closing them down, the insurance regulator may undermine the objectives of small enterprise development and black economic empowerment. To reconcile these objectives the enforcement of insurance regulation should be combined with active support for funeral parlours in legalising their operations."

⁴¹ Reinecke, Van der Merwe, Van Niekerk and Havenga *General Principles of Insurance Law* (2002) 1.

⁴² A good example of government intervention in the management of a particular risk is the Road Accident Fund Act 56 of 1996, as amended. This particular act stipulates that claims for the injury or death of a person resulting from the unlawful and negligent driving of a motor vehicle are not to be instituted against the common law wrongdoer but against the Road Accident Fund in accordance with specific statutory requirements. For an overview of the legal basis of third party claims, see Klopper *The Law of Third Party Compensation* (2008) 19. See also Millard "For Whom the Bell Tolls ... Interplay between Law of Delict and Social Security Law in Three Modern Compensation Systems" 2010 3 *TSAR* 532 546-547.

can identify risks such as bereavement after the death of a relative for which informal societies render support. The bottom line is that the management of risks should ideally take place in a co-ordinated way, taking real needs of communities into consideration and financing the expenses from diverse sources. It is here that micro-insurance may prove useful.

Micro-insurance may be used to offer protection against a variety of risks. As shown in *Box 1* below, it may cover social risks contained in the International Labour Organisation's (ILO) Social Security (Minimum Standards) Convention 102 of 1952 such as illness, invalidity and old age. Furthermore, it may be used to insure risks such as crop failure, loss of income-generating assets, *etcetera*.⁴³ Therefore, it can be argued that the micro-insurance target market has diverse requirements when it comes to the risk(s) to be covered. In addition, some of the risks (for example, crop failure, draught, floods etc) do not fall within the nine classical risks (medical, sickness, maternity, old age, family, invalidity, unemployment, employment injury and death) as contained in the Social Security (Minimum Standards) Convention. Yet, such occurrences may (and frequently) have an adverse effect on the livelihoods of the vulnerable and marginalized groups of persons. To this end, affected groups may perceive such incidences as worthy of some form of protection. Another point to be observed is that, what amounts to a (social) risk may vary from one group of persons to another and from one area to another even in a single country. Most importantly, low-income earners may rank risks and prioritize coverage on the basis of what they consider more important. For example, long-term contingencies such as old age may not rank supreme in the case of low-income earners who might be more concerned about immediate needs such food security.⁴⁴ The point is that poor communities rely mostly on informal social-security mechanisms as a means of surviving risks.⁴⁵ They are most exposed to diverse risks such as natural disasters, war, inflation and ill health and immediate needs such as food and shelter, which are necessary for survival, are prioritized over insurance for obvious reasons.

Therefore, a policy approach on what risk(s) to cover should be mindful of the fact that one size does not fit all when it comes to low-income earners. Secondly, it should be borne in mind that micro-insurance remains insurance, irrespective of the target market, and, for that reason, risks to be covered must be insurable.⁴⁶

⁴³ See, eg, Arun and Steiner *Micro-insurance in the Context of Social Protection* (Brooks World Poverty Institute (2008)) 4-5; ILO/STEP – GTZ *The Role of Micro-insurance as a Tool to Face Risks in the Context of Social Protection* (ILO/STEP – GTZ (2006)) 25-29; and Lloyd's "Insurance in Developing Countries: Exploring Opportunities in Micro-insurance" <http://www.lloyds.com/360>.

⁴⁴ This does not imply that old age is less important. However, the precarious existence of the excluded and marginalized persons could lead to a situation where old age, as a risk, rank low as compared to the so-called here-and-now needs/risks (eg, providing for an empty stomach).

⁴⁵ Olivier, Smit and Kalula *Social Security: A Legal Analysis* (2003) 567.

⁴⁶ That means the risks concerned must comply with the following conditions that make a risk insurable enunciated in *Beik's Insurance Dictionary* (<http://www.beiks.com>): "(1) [The risk] must be accidental, (2) the loss must be defined, (3) the peril insured against must produce a definite loss and hardship not under the control of the insured, (4) there must be a large number of exposures subject to the same perils, (5) the loss must be calculable and the cost

Box 1: What risks are covered by micro-insurance?

What risks are covered by micro-insurance?

Micro-insurance schemes can cover various risks (health, life, *etcetera*). The most frequent micro-insurance products are:

- Life micro-insurance (and retirement savings plans) provides coverage against the financial consequences of old age or of the death of a breadwinner.
- Health micro-insurance provides coverage against the financial consequences of ill health and maternity. The financial consequences can take several forms: direct medical costs of prevention, care and cure (fees for consultations, laboratory tests, medicines, hospitalization, delivery, *etcetera*); direct non-medical costs such as costs of transportation, food in case of hospitalization; and indirect costs (opportunity costs), as ill health and maternity usually entail a loss of productive time for both patients and caretakers. Health micro-insurance schemes usually cover direct medical costs covering a predetermined list of risks (or health services). Very few schemes provide cash benefits (income replacement) in case of ill health or maternity.
- Disability micro-insurance provides coverage against the financial consequences of disability, whether temporary or permanent, depending on the contract. Disability is called temporary when the physical loss is reversible and lasts for a limited period of time (generally up to three years).
- Property micro-insurance (assets, livestock, housing) provides coverage against the financial consequences of the damage or loss of personal assets, work premises and tools (for example, hut micro-insurance against fire, theft of belongings, or death of livestock). Crop micro-insurance provides a financial compensation in the case of crop failure generated by uncontrollable adverse events (for example, drought [and] crop pest).

(Source: International Labour Office "Global Information on Micro-insurance" http://www.microinsurance.org/gimi/ShowFAQ.do?sid=24#a31_170.)

4 (SOME) POLICY CHALLENGES, IMPLICATIONS AND CHOICES

4.1 Who are or (should be) the actors?

There are main actors who could play an important role in ensuring that micro-insurance extends social protection to the excluded and marginalized in the South African social-protection system. These are, in no order of preference, individuals, families and communities, State and private insurers. In the following section, the three actors are individually discussed.

of insuring must be economically feasible, (6) the peril must be unlikely to affect all insureds simultaneously, and (7) the loss produced by a risk must be definite and have potential to be financially serious."

4 1 1 *Individuals, families and communities*

Individuals have a responsibility to take steps to protect themselves and their families against social risks. Families and communities also have a duty to look after their weaker members. Discharging this duty among the poor is easier said than done. The point is that there are limits as regards the extent to which the poor can share poverty. Despite that, a majority of those who are excluded and marginalized from the formal social-protection interventions have devised their own strategies to cope with social risks commonly known as informal social security (for example, burial societies).⁴⁷ These interventions should not be romanticized as they do have their own imperfections. For example, risks associated with the provision of social protection such as over-exposure to risks, corruption and fraud are also present in informal social security. This is compounded by the high illiteracy rate among most of the informal sector participants. It is therefore crucial that the informal interventions be strengthened and, where possible, linked with or incorporated into the formal measures. Incorporating existing insurance-type informal coping strategies (for example, burial societies) into a new micro-insurance framework will without any shadow of doubt be a challenging enterprise. However, this could prove useful in attempts to win over the existing members of the informal scheme into the new framework. The point is that this exercise could be seen as a form of appreciation of past individual efforts by the excluded and marginalized groups of persons. To make micro-insurance attractive to the target market, it is crucial that the products on offer be *affordable* to the poor. In addition, they must be *appropriate* for the target market. In other words, they must respond to the (social) needs of the poor. Furthermore, the service (providers) must be *accessible* to the target market.

4 1 2 *State*

The State in South Africa has a constitutional duty take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of everyone's right to access to social security.⁴⁸ With this constitutional imperative in mind, the State can act in three capacities in its quest to extend social protection through micro-insurance. Firstly, it can serve as a *regulator* and set-up an appropriate regulatory framework for micro-insurance in South Africa.⁴⁹ This should involve the setting of (uniform) norms and standards for the micro-insurance industry. However, these norms and standards should be developed *with* and *not* for the stakeholders. This is of utmost importance for ensuring that the needs of those involved are meaningfully addressed.

⁴⁷ The concept of informal social security essentially refers to those self-organized and self-managed unofficial strategies used by individuals and communities to cope with social risks. These strategies can be kinship-based or community-based.

⁴⁸ S 27(2) of the Constitution of the Republic of South Africa, 1996.

⁴⁹ Micro-insurance regulations and supervision are discussed in more detail under par 4.2 below.

Secondly, the State may act as a *provider*, subject to the availability of resources, and build capacity in the micro-insurance sector. This should, where appropriate, include technical support through training initiatives to impart valuable skills such as bookkeeping. It could also include financial support to strengthen the financial base of the micro-insurance schemes so that they can dispense better benefits. Such subsidies could also send a positive message to the poor. That is, they are not left to their own devices by the State. At any rate, the State finances the social-assistance benefits and is responsible for any deficits that may accrue in any financial year for social-insurance schemes such as the unemployment insurance scheme. To avoid a situation where micro-insurance is perceived as a second class social-protection scheme for the poor, the State should continue to strive towards the progressive extension of social protection to those who are yet to be covered. Failure to do so could breed resentment by the poor and an ultimate demise of micro-insurance in South Africa. Therefore, micro-insurance should not be seen as the final answer to the social protection needs of the poor. It is part of the solution in the sense that it should exist alongside other social-protection interventions such as social assistance and social insurance.

Furthermore, the State could serve as a *facilitator* and assist in the forging of linkages between the excluded and marginalized persons as well as their informal-survival strategies (for example, burial societies), the State and private role players (for example, financial and insurance institutions). It should be pointed out that in most instances informal social-protection mechanisms already have direct and/or indirect links with formal institutions such as banks and insurance houses. What is required is to transform these relationships into something more beneficial to the informal-sector schemes and their participants through measures such as micro-insurance and micro-finance. For instance, addressing perceptions often harboured by the private-sector institutions that those who participate in the informal social-protection mechanisms are a high-risk group that does not justify the effort. In this regard, much can be learnt from the South African approach to micro-financing. Prior to its recent regulation, micro-finance was a relatively unregulated field largely run by dubious characters (often referred to as loan sharks). This habitually resulted in grief, particularly for the poor. The government regulatory interventions, did not only instil order and a sense of security for the poor, but also led to a situation where private institutions started rendering micro-financial products and services. This immensely improved access to finance to a majority of the poor and the so-called previously unbanked members of the society.

The true value of State intervention is already noticeable in the way in which insurance, pensions and a variety of other financial services are being regulated in terms of various statutes, most notably the Financial Advisory and Intermediaries Act.⁵⁰

⁵⁰ Act 37 of 2002. See par 4 3 below.

4 1 3 *Private insurers*

As pointed out earlier, the South African private-insurance industry does not adequately cater for the social needs of those excluded from the ambit of the formal social-protection system – particularly the informal-sector workers. This situation is, for a variety of reasons, not surprising. Firstly, private insurers, unlike social insurance funds, are profit driven. For that reason, private-insurance houses: “have often found servicing low-income communities unattractive, as compared to the higher returns received from servicing higher-income groups. The poor have discontinuous income and are more prone to risk, thus the higher transaction costs are unattractive to insurance companies and customers”.⁵¹

There are many answers to the question as to why ordinary insurance products do not reach the poor. One of the stumbling blocks is the transaction costs that inevitably accompany the management of large volumes of small policies.⁵² Apparently insurers find it costly to market products to consumers who are not familiar with insurance.⁵³ The current regulatory framework, which is discussed below, also imposes stringent obligations on insurers when dealing with clients, especially those who are not knowledgeable, and one questions the wisdom of putting in R100’s worth of effort in order to make a profit of R50. Furthermore, service providers need to collect premiums from individuals who may not have bank accounts and, in addition to this, they need to assess and settle small claims.⁵⁴

To paint an even bleaker picture, traditional main-stream insurance products are not designed with factors such as irregular income of policy holders in mind.⁵⁵ A typical problem is that of inappropriately insured amounts, complex exclusions and legal jargon that is difficult enough for ordinary customers to understand, let alone poor and often illiterate consumers.⁵⁶

From a risk perspective, insurers do not have the right mechanisms to control typical insurance risks such as adverse selection and fraud.⁵⁷ Furthermore, perspectives from both insurers and consumers may bar effective dealings in the micro-insurance arena, where insurers are unfamiliar with the needs of the poor, assume that the poor cannot afford insurance and provide intermediaries with large incentives, thereby effectively discouraging them from selling smaller policies, and where the poor are simply sceptical about insurance companies and their products.⁵⁸

On this point, it is interesting to note that this scepticism amongst poor communities which causes them to refrain from participating in formal

⁵¹ Asian Development Bank “Strategic principles for social protection interventions” <http://www.adb.org>.

⁵² Churchill 405.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ *Ibid.* Adverse selection refers to those instances where an insurer undertook the insurance of a risk and all those risks materialise in a short period of time.

⁵⁸ Churchill 405.

insurance, also keeps them from participating in social-protection schemes. Since they do not enjoy coverage under the social-protection system, they rely on informal coping strategies and networks which evolve from the communities themselves to help them weather the storms and cope with adversity.⁵⁹ It is a well-known fact that commercial institutions realize that there are vast amounts of cash that never see a bank and are not invested or used for purposes of insurance or social protection. Everybody is after the money under the mattress. The question is essentially: how can commercial insurers provide insurance cover to the poor and help alleviate the burdens that are brought about when risks materialize?

Normally, an insurer starts out by targeting the market and understanding exactly what is needed. In micro-insurance, it is important to understand that these products are not watered-down versions of more expensive products, but rather that they are new, simple, affordable products with minimal exclusions and restrictions.⁶⁰ In designing these new products, insurers need a friendly, flexible regulatory environment as well as insight into the needs of the poor.⁶¹ For instance, an informal-sector worker who needs disability cover will most likely be unable to procure such cover by applying for existing disability policies. The reason is that these have mostly been created for those who are self-employed and fairly well-off or those who work in the formal sector, have a monthly income or even receive a disability policy as part of their service contract. An informal worker needs to cope with different factors such as irregular income, exposure to unsafe work conditions and no or limited access to health-care services. This constitutes a huge challenge for commercial insurers and probably explains why this market was not targeted earlier. Another challenge is the current regulatory framework. One cannot ignore the fact that regulation is mainly aimed at protecting consumers and that the debate about regulation is one that is equally relevant to micro-insurance.

4 2 Current (formal) options for writing micro-insurance

According to the Discussion Paper, there are a number of ways in which formal-sector players can currently provide micro-insurance to the low-income market, namely by obtaining underwriting for their products, by buying into a cell captive, by registering as a friendly society offering limited insurance benefits or by registering as a long- or short-term insurer.⁶²

The first option for any entity that is unable to underwrite the risk it aim at insuring, is to obtain underwriting from a formal insurer. These entities

⁵⁹ See Olivier, Smit and Kalula 567; Kaseke "Informal Social Security in Eastern and Southern Africa" in *Towards the Development of social Protection in the SADC Region: Proceedings of and Outcomes of a Conference held at the Helderfontein Conference centre, Johannesburg, South Africa, 17-19 October 2001* Johannesburg: Centre for International and Comparative Labour and Social Security Law RAU 2002; and Holzman "Risk and Vulnerability: The Forward Looking Role of Social Protection in a Globalising World" in Dowler and Mosely (eds) *Poverty and Social exclusion in North and South* (2002) par 1.

⁶⁰ Churchill (407) states that a particular product and the processes related thereto "must be simple enough so that illiterate people can understand them".

⁶¹ See par 4 3 below on the regulatory environment.

⁶² Discussion Paper 40.

include burial societies, affinity groups and sole proprietors.⁶³ Underwriting entails the transfer of risks to the underwriting insurer. The entity effectively acts as an intermediary with the difference that it has more input into product design.⁶⁴ Furthermore, the extent of flexibility that the insurer will be willing to offer will depend on the size of the potential client base. The advantages of underwriting are obvious. It removes the need for capital and skills and that it is independent of institutional form and is not limited in benefits provided. Finally, because the groups that obtain underwriting are dependent on existing insurers, underwriting is a first convenient step into the formal insurance market.⁶⁵ One obstacle that can stand in the way of an organization obtaining underwriting can be the difficulty in interesting an underwriter in the entity's client base. Another problem may well be that insurance companies may need to adjust their policies to fulfil the need of people in the low-income market.⁶⁶ These are realities that may stand in the way of a smaller organization obtaining proper underwriting. Furthermore, it is conceivable that the Financial Services Board (FSB) may scrutinize the underwriting agreement in order to ensure that the risks are in fact underwritten and that there are no irregularities that may have negative consumer protection implications.

The cell-captive mechanism provides yet another option. Here, a cell-captive insurer is a registered long- or short-term insurer that is registered to sell individual cells in the form of separate classes or shares to groups or organizations.⁶⁷ Advantages of this construction are *inter alia* that the cell captive does not have to obtain its own licence and that the insurer is obliged to ensure that every cell is solvent.⁶⁸ The most advantageous arrangement is that the cell-captive insurer is liable for all risks.⁶⁹ However, captive companies often limit the choice of the insured party to select suitable cover by creating *pro forma* shareholder agreements which means that the agreements are not always sufficiently adapted to suit the needs of the group or organization.⁷⁰ Cell captives also have a multitude of cell owners which means that their articles of association apply to all owners, which means that an organization must fit into a specific mould.⁷¹ Also, the cell owner is actively involved in the day-to-day business of the cell which means that the cell owner may very well be an intermediary. Finally, cell captives do not have separate legal personality, which means that a creditor of a cell captive "can look to the assets of all of the cells within the company, because there is no legal separation between the company and the cells".⁷²

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ Discussion Paper 41.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ See Jooste and Tucker "Cell captives take off in South Africa" <http://www.bowman.co.za/LawArticles/Law-Article.asp?id=1189206953> (accessed 2008-10-27).

⁷¹ *Ibid.*

⁷² *Ibid.*

Therefore, there is the danger of the cell and funds held within being wiped out if the cell captive is wound up by a non-cell creditor.⁷³

Another option is to register as a friendly society in terms of the Friendly Societies Act.⁷⁴ This option limits the maximum benefits to R7 000, which is low and cannot compete with higher benefits provided by other players in the market.⁷⁵ Because of limitations imposed by the Act, some friendly societies cannot buy the share capital needed to acquire a cell and can therefore not utilize the cell-captive mechanism.⁷⁶

In addition, any role player who wants to provide micro-insurance to low income groups can register as a full long-term or short-term insurer. This, of course, means that it is necessary to meet all the requirements of the respective acts and that might be out of proportion to the low risks covered by micro-insurers.⁷⁷

Finally there is the possibility of creating a new regulatory environment that caters for a dedicated micro-insurance licence. The debate at this point in time is on the balance between consumer-protection rules and enough flexibility in order to keep products inexpensive and accessible. This may create a dilemma for regulators and everything comes back to the debate on over-regulating and consumer protection versus under-regulating and loss of confidence in financial products which may be the result of fraud. Before looking at a new approach to the marketing of micro-insurance, it is necessary to have an overview of the current regulatory framework. No new insurance product can be successfully implemented without taking cognisance of the current regulatory environment.

4 3 Regulatory environment

Currently, the insurance industry is regulated by the Long-term Insurance Act,⁷⁸ the Short-term Insurance Act⁷⁹ and as far as advisors and intermediaries are concerned, the Financial Advisors and Intermediaries Act (hereinafter the FAIS Act).⁸⁰ The first two acts have been in operation for a while and are only important for specific, existing products. It is in fact the FAIS Act that is important for any regulatory matters, as this act contains a number of very specific rules pertaining to the rendering of financial advice and intermediary services.

A committee of the FSB's Policy board drafted a legal framework for financial intermediaries and this was published in December 1998.⁸¹ A short overview of the establishment, administration and functions of the FSB is needed in order to understand where FAIS came from: The FSB as a

⁷³ *Ibid.*

⁷⁴ Act 25 of 1956.

⁷⁵ Discussion Paper 43.

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

⁷⁸ Act 52 of 1998.

⁷⁹ Act 53 of 1998.

⁸⁰ Act 37 of 2002.

⁸¹ Van Zyl *Financial Advisory and Intermediary Services Manual* (2004) 1-9.

creature of statute was established by the provisions of the Financial Services Board Act.⁸² This corporate body lies outside the public service and its members are appointed by the Minister of Finance.⁸³ At first, the function of the FSB was to supervise non-banking financial institutions which had been created by various acts of parliament.⁸⁴ Gradually more functions were ascribed to the FSB, such as supervisory powers over financial institutions through its executive officer and as statutory registrar of a variety of financial institutions in terms of their founding legislation.⁸⁵ Currently, the FSB controls the following acts, namely the Collective Investment Schemes Control Act,⁸⁶ the Financial Services Board Act,⁸⁷ Financial Institutions (Protection of Funds) Act,⁸⁸ Financial Supervision of the Road Accident Fund Act,⁸⁹ Friendly Societies Act,⁹⁰ Inspection of Financial Institutions Act,⁹¹ Long-term Insurance Act,⁹² Pension Funds Act,⁹³ Short-term Insurance Act,⁹⁴ Supervision of the Financial Institutions Rationalisation Act,⁹⁵ The Securities Services Act⁹⁶ and most importantly for this discussion, the FAIS Act.

Upon its enactment, the main legislative functions of the FAIS Act were to supervise the exercise of control in terms of any law over the activities and financial services of financial institutions and to advise the Minister of Finance on matters concerning such financial institutions.⁹⁷ In accordance with the Financial Services Board Amendment Act⁹⁸ the first function was redefined as being “to supervise the compliance with laws regulating financial institutions and the provision of financial services”.⁹⁹ To this, a new function was added. Hence, the FSB is also empowered “to promote programmes and initiatives by financial institutions and bodies representing

⁸² Act 97 of 1990.

⁸³ Van Zyl 1-7. S 4 of the Financial Services Board Act reads as follows: “Constitution of board (1) The board shall be governed by so many members as the Minister may deem necessary and appoint, with due regard to the interests of the users of financial services and the suppliers of financial services, including financial intermediaries, and the public interest. (2) The Minister may appoint an alternate member for every member of the board. (3) The Minister shall appoint a member of the board as the chairperson and another member as the deputy chairperson. (4) If the chairperson is absent or is for any reason unable to act as chairperson the deputy chairperson shall perform the functions of the chairperson.”

⁸⁴ Van Zyl 1-7.

⁸⁵ *Ibid.*

⁸⁶ Act 45 of 2002.

⁸⁷ Act 97 of 1990.

⁸⁸ Act 28 of 2001.

⁸⁹ Act 8 of 1993.

⁹⁰ Act 25 of 1956.

⁹¹ Act 80 of 1998.

⁹² Act 52 of 1998.

⁹³ Act 24 of 1956.

⁹⁴ Act 53 of 1998.

⁹⁵ Act 32 of 1996.

⁹⁶ Act 36 of 2004.

⁹⁷ Van Zyl 1-7. See s 3 of the FAIS act.

⁹⁸ Act 12 of 2000.

⁹⁹ See s 2 of Act 12 of 2000.

the financial services industry to inform and educate users and potential users of financial products and services.”¹⁰⁰

On the functions of the FSB, Van Zyl comments that the FSB is concerned with consumer protection and that this translates into striving towards integrity, fairness, transparency and disclosure in the rendering of a financial service.¹⁰¹

It is exactly on this point of consumer protection that the Policy Board for Financial Services and Regulation had risen to the occasion on the subject of insurance advisors intermediaries.¹⁰² It compiled a new legislative framework for financial intermediaries and advisors and this was published in December 1998.¹⁰³ Mandated by the Policy Board, the FSB proceeded to draft the FAIS Act. As is the case with many a legislative process, an extensive process of consultation followed and the Parliamentary Portfolio Committee of Finance was tasked with the resolution of a number of issues, notably that of inconsistencies between the FAIS Act and the Policyholder Protection rules in terms of the Short-term Insurance Act¹⁰⁴ and the Long-term Insurance Act¹⁰⁵ and the overlapping regulation of intermediaries in respect of medical aid health-care benefits under the Medical Schemes Act.¹⁰⁶

Nearly 7 years after its inception, FAIS has proved to be an effective tool in regulating intermediary services. Furthermore, by liaising with internationally representative organizations such as the International Organisation of Securities Commissions (IOSCO), the International Association of Insurance Supervisors (IAIS), the African Association of Insurance Supervisors and the International Network of pension regulators and Supervisors (INPRS), the FSB as a regulator and administrator of the Act ensures that regulation in the area of intermediaries is maintained on the highest possible level.¹⁰⁷

The proved success of the FSB as a regulatory body makes it impossible to ignore. The question is whether micro-insurers or micro-insurance as a type of business should be added to the long list of financial services already regulated by the FSB. Opinion seems to be divided on this particular issue. For service providers who are regulated under FAIS, this act states clearly that these service providers must be authorized as such from 30 September 2004.¹⁰⁸ The Act provides that the registrar must ensure that a provider and

¹⁰⁰ *Ibid.*

¹⁰¹ Van Zyl 1-8.

¹⁰² This statutory body was created by the Policy Board for Financial Services and Regulation Act 141 of 1993. In terms of s 3 of this Act, the object of the policy board is to advise the Minister of Finance on policy matters relating to financial services and regulation. In addition s 5 (b) states that it should provide advice on policy considerations regarding the adoption or amendment of any law in terms of which any financial institution or financial, investment or related service is administered or regulated. See Van Zyl 1-9.

¹⁰³ Van Zyl 1-9.

¹⁰⁴ Act 53 of 1998.

¹⁰⁵ Act 52 of 1998.

¹⁰⁶ Act 131 of 1998.

¹⁰⁷ Van Zyl 1-7.

¹⁰⁸ S 7(1) of the FAIS Act and GN 270 of 5 March 2004 “Determination of Date in terms of section 7(1) of FAIS Act”. Owing to the large volume of applications that the registrar and

the key individuals of a provider meet a set of criteria referred to as the “Fit and Proper Requirements”. The importance of these requirements is that it ensures that financial services providers adhere to the requirements pertaining to honesty and integrity, competency, operational ability and financial soundness.¹⁰⁹

The following table by Hattingh and Millard¹¹⁰ explains how a financial-services provider manages to comply with the Fit and Proper Requirements:

Fit and Proper Requirements	Key individual	Partnership, a trust or a corporate (company or close corporation) or unincorporated body
Honesty and Integrity	Person him/herself	Key individual and any director, member, trustee or partner of the provider, who is not a key individual
Competency	Person him/herself	Key individuals
Operational ability	Person him/herself	Entity and key individuals
Solvency	Person him/herself	Entity

These requirements are very important, as they set the standard for the level of competence required from those who are players in the field.

In relation to micro-insurance it is debatable whether the FAIS Act is ideal for regulating those providers who want to provide new products that can be classified as micro-insurance. According to the Discussion Paper, “regulation has increased the cost of advice and has contributed to the bifurcation of the market into advice and non-advice intermediation”.¹¹¹ Although the FIAS Act improved the quality of intermediary services, the so-called “unintended consequences” cannot be ignored. On the other hand, by allowing micro-insurers to operate in a legal environment where it is not necessary to comply with the same fit and proper requirements, consumers are again put at risk. Although the amounts involved in micro-insurance are far smaller compared to regular insurance products, the fact remains that those relatively small amounts of money are very significant to a poor consumer. He or she who earns R1000 per month and who pays as much as R10 per month for an insurance product deserves the same protection against fraud,

recognized representative bodies received after the submission date of July 2004, the Registrar granted a blanket exemption to all applicants that submitted applications before 29 September 2004. This blanket exemption was applicable to all applicants until authorization as FSP was either granted or declined. See Hattingh and Millard *The FAIS Act Explained* (2010) 33.

¹⁰⁹ Hattingh and Millard 34. See also Board Notice 106 of 2008 “Determination of Fit and Proper Requirements for Financial Services Providers, 2008” in GG 31514 of 2008-10-15, as amended by Board Notice 151 in GG 31755 of 2008-12-29.

¹¹⁰ 35.

¹¹¹ 27.

misrepresentation and other abuses as a client who earns more and pays more for insurance. It is therefore not sure how it is possible to have regulations which are proportional to the risks posed by micro-insurance.¹¹²

It is suggested that the issue of appropriate regulation of micro-insurance is the most problematic one. Much consultation will have to take place between the various stakeholders before a solution will be reached that is first and foremost in the interest of consumers who hope to benefit from micro-insurance. It is submitted that appropriate regulation is the key to the success of any proposed micro-insurance legislation in South Africa.

4 4 A new approach: forging a link between social assistance and micro-insurance

As pointed out earlier, there are large groups of individuals who fall outside the safety net and there are limited mechanisms that (meaningfully) manage the risks these people are exposed to. The current thinking revolves around the marketing of products to the poor. Much has been said about new marketing strategies. Some argue that once insurers understand the market and are sensitized to the social and economic differences between the poor and the existing insurance market, it is necessary to convey the need for insurance to the poor.¹¹³ Churchill cites street theatre and soap-opera style videos as communication tools that can help poor persons understand how insurance works.¹¹⁴ Furthermore, in order to create a culture of insurance, micro-insurers should build trust by providing value for money and literally encouraging claims or at least do their utmost not to reject claims.¹¹⁵ Most importantly, insurers should take a long-term perspective and assume that real returns will only come at some future time and will not be immediate.¹¹⁶ Again, this outlook is very idealistic and goes against the grain of what insurers normally do.

The next step after marketing is always distribution. Existing insurance products are distributed or transacted through agents. One reason for this is that insurers are not natural persons but legal entities which can only act through representatives.¹¹⁷ Another possible reason is that those who seek insurance find it convenient to seek the assistance of agents who are well-versed in insurance and have the ability to compare products and make recommendations.¹¹⁸ Sometimes the sheer complexity of an insurance product necessitates the advice of an agent. The Long-term Insurance Act¹¹⁹ and the Short-term Insurance Act¹²⁰ use the term "intermediaries" and differentiates between independent intermediaries and representatives.¹²¹

¹¹² Discussion Paper 49.

¹¹³ Churchill 406.

¹¹⁴ *Ibid.*

¹¹⁵ Churchill 407.

¹¹⁶ Churchill 409.

¹¹⁷ Reinecke *et al* 338.

¹¹⁸ *Ibid.*

¹¹⁹ Act 52 of 1998.

¹²⁰ Act 53 of 1998.

¹²¹ Reinecke *et al* 339.

Over and above the common law duties that rest on intermediaries,¹²² the FAIS Act imposes additional duties on intermediaries.

Although intended to protect consumers and improve the quality of intermediary services, the FAIS Act's unintended consequences include an increase in the cost of advice and an increase in the use of "tick-box" sales. "Tick-box" sales refer to insurance that is bought off the shelf where no active advice is given and it is also not actively sold.¹²³ In an attempt to market more affordable insurance products and to avoid the additional costs associated with advice-based intermediation, non-advice models have already been used in the low-income market.¹²⁴ Alongside "tick-box" sales, cellphone technology, cash premiums and passive sales have emerged as new strategies that extend the reach of commercial insurers.¹²⁵

This way of thinking has merits. However, it is suggested that a more effective way of reaching the poor is to start marketing micro-insurance amongst those who are already recipients of social assistance grants. What is needed is a partnership with the South African Social Security Agency (hereinafter "the SASSA") in terms of which a number of select insurers who have been duly authorized by the FSB to do so, start marketing a limited number of products among those who are registered on SASSA's system. Many possibilities exist. For example, one may start by marketing funeral policies amongst the recipients of old-age grants. SASSA already has the banking details of the recipients as well as all the information needed in terms of the means test in order to authorize payments of the social security grants. If SASSA's agents corroborate with intermediaries from the select, authorized insurers, these intermediaries can provide assistance policies to a target group who needs this type of insurance. One can take this a step further: A recipient of a State old-age grant is typically responsible for the maintenance of a number of other individuals, most likely children and grandchildren, who are unemployed or too young to work. If one markets life insurance to a group like this, one has the advantage of knowing beforehand what the age and needs of the specific individual is. This relieves the potential insurer of the burden of disclosure to a certain extent, because the insurer already knows the potential insured's vital information such as age, gender and physical address. Also, one knows that by selling life cover to such an insured person, one ensures that the dependents of the policy owner receive survivor's benefits upon the death of the policy-holder that will help the beneficiaries to cope with the loss of the breadwinner.

Another very important advantage of selling micro-insurance in partnership with SASSA is that a portion of the social grant is circulated back into the main stream economy. By doing this, one achieves several goals. First, one boosts an industry and ensures that more jobs are created in that particular industry. Second, one ensures that recipients of welfare benefits

¹²² These duties include *inter alia* to act with reasonable care and skill, to obtain insurance coverage, not to insure with an insolvent insurer, to assist the insured to disclose material information, to deliver the policy, to advise the insured on the meaning of the policy and the duty to assist the insured with a claim. See Reinecke *et al* 343-349.

¹²³ Discussion Paper 27, fn 22.

¹²⁴ Discussion Paper 28.

¹²⁵ *Ibid.*

start thinking about self-help and private insurance and third, by only targeting the recipients of social grants and working in a partnership with an existing State agency, one ensures that abuse is limited to the minimum. The intermediary who markets micro-insurance products to these recipients know what their income, basic expenses and needs are and it should be easier to market a tailor-made product to that particular group of individuals. Limited discretion is needed and the sale takes places in a “protected environment”.

Furthermore, if the State joins this partnership, it is possible to reach an agreement in terms of which the government makes a small contribution towards maintaining the policy. For instance, if the premium amounts to R25, government can pay R5 of the total amount. This may serve as an incentive for the recipients of social grants to procure insurance.

It is submitted that the marketing strategies mentioned by the likes of Churchill are definitely meritable. However, it is suggested that regulated co-operation between the State, SASSA and a number of select, authorized insurers may just be the most effective way of getting micro-insurance off the ground. In addition, during this ‘first phase’ more information will come to the fore on the perceptions of the poor, insurer’s ability to operate in this field and the true impact of micro-insurance on the plight of the poor.

5 CONCLUSION

Micro-insurance as a potential policy intervention for extending social protection to the vulnerable has been under-researched in South Africa. To this end, opinions and proposals contained in this paper should be seen as investigative in nature. In reality, further in-depth research on this subject is necessary. This is more pressing, particular in light of the ongoing social protection and retirement reform debates in South Africa. Research is crucial in dispelling any myths and fiction that may exist about the social protection needs of the excluded and marginalized in South Africa. It should be kept in mind that much has been achieved in extending social protection to the poorest of the poor in South Africa through interventions such as social assistance. In addition, there are limitations to what the State can achieve in alleviating the plight of the needy through its limited resources. Nevertheless, the extension of social protection to all needy persons in South Africa is a goal which individuals, families and communities, the State and the private sector should – individually and collectively – (continue) to strive for.