

SAXUM
INSURANCE
(IN LIQUIDATION)

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10 May 2021

**TO ALL KNOWN POLICYHOLDERS, CREDITORS, BROKERS AND STAKEHOLDERS OF
SAXUM INSURANCE LIMITED (IN LIQUIDATION)
(MASTER'S REFERENCE NUMBER G1076/2016)**

CIRCULAR NUMBER 34

UPDATE ON THE LIQUIDATION PROCEEDINGS

1. SaXum was placed into liquidation on 20 October 2016 by way of an order granted in the High Court, Johannesburg. SaXum to date remains in liquidation.
2. You are referred to the contents of all the previous Circulars issued by the liquidators on various aspects of the liquidation proceedings of SaXum, which can be found on the website www.saxuminsurance.com. The Liquidators however wish to provide you with a summary of certain important information.
3. **Assessment of Insurance Claims**
 - 3.1. The joint-liquidators appointed EOH FS Proprietary Limited (**EOH-FS**) to assess SaXum's Insurance Motor Claims. EOH-FS is now known as XTND Proprietary Limited (**XTND**).
 - 3.2. EOH-FS completed the assessment of the Motor Claims on during August 2017.
4. **South African Insurance Association Fund (SAIA Fund)**
 - 4.1 SAIA is the representative body of the Short Term Insurance Industry in South Africa.
 - 4.2 The Short Term Insurance Industry in South Africa recognized that the SaXum liquidation led to the prejudice of multiple SaXum Policyholders. The industry accordingly came together and set up a limited fund (the **SAIA Fund**) to alleviate the prejudice suffered by those policy holders affected most negatively by the liquidation of SaXum.
 - 4.3 The SAIA Fund was a once-off short term voluntary industry initiative put in place due to the liquidation of SaXum and had a capped amount available for the benefit of those affected by the liquidation of SaXum. SAIA had the discretion to determine who the recipients of the fund were.

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Liquidators:

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- 4.4 The SAIA Fund was only used towards motor personal lines policies in respect of policyholders who qualified as hardship claimants for payment from the SAIA Fund.
- 4.5 Certain minimum criteria had to be met for a policyholder to be considered as a hardship claimant by SAIA. Some of the criteria included:
 - 4.5.1 the claimant must have had a valid motor insurance personal lines policy with SaXum in respect of an insured vehicle (note that commercial claims, including motor, were excluded from participating in the SAIA Fund);
 - 4.5.2 the claimant's motor insurance personal lines policy with SaXum must have been assessed by EOH-FS (now XTND);
 - 4.5.3 the claimant must have lodged a liquidation claim against the SaXum estate, which the joint-liquidators had to verify and confirm with SAIA;
 - 4.5.4 the claimant must not have been indemnified by SaXum for their loss or damage to the insured vehicle; and
 - 4.5.5 the claimant's vehicle must have been held by panel beaters or salvage dealers or a towing company.
- 4.6 A qualifying hardship claimant did not necessarily receive the full value of his/her claim from the SAIA Fund, and if there was any outstanding balance, the policyholder retained a concurrent claim against the SaXum estate for that balance.
- 4.7 Hardship claimants that received payment from the SAIA Fund were required to sign a cession agreement in terms of which they agreed to cede to SAIA their claim against the SaXum estate up to the amount that they received from the SAIA Fund.
- 4.8 Eligible policyholders were also required to sign and complete a release form, which released both the SAIA Fund and the SaXum estate of any claims.
- 4.9 Payments to qualifying hardship claimants took place in two phases. The first group of qualifying hardship claimants were those whose vehicles were financed by, and were still under finance agreements with registered banks, or financed institutions, who agreed to the terms of the payment that was made under the SAIA Fund. Any payment made from the SAIA Fund for the first group of qualifying hardship claimants, was made to the relevant bank or finance institution and not directly to any policy holder. The phase two qualifying claimants were identified by SAIA and payments in terms of this phase were also made directly to the banks or the finance institutions.
- 4.10 In the event that you were not contacted by EOH-FS (now XTND) it meant that you did not form part of the group of the qualifying hardship claimants and your claim against the insolvent estate of SaXum remains valid.
- 4.11 As mentioned above, qualifying hardship policyholders were required to cede all their rights to any claim against the SaXum estate, including the right to claim payment from the SaXum insolvent estate, to SAIA. SAIA, however, only took cession of the right to receive any potential distribution from the SaXum insolvent estate, and the cession did not include any liabilities attached to the SaXum insured vehicle. These liabilities would include any licensing fees, penalties or fines relating to the SaXum insured vehicle, all of which are and remain the obligation of the policyholder.
- 4.12 Kindly note that hardship policyholders that benefitted from the SAIA Fund remain the owners of the SaXum insured vehicle, until such time that a distribution is made to SAIA from the insolvent estate. Therefore the SaXum insolvent estate is not the owner of these vehicles and cannot prejudice other claimants by making payments of any licensing fees, penalties or outstanding fines for these vehicles from the SaXum insolvent estate. The qualifying hardship policyholders are

therefore liable for all and any licensing fees, penalties or outstanding fines, relating to the SaXum insured vehicle. The qualifying hardship policyholders are requested to contact their local licensing department to ascertain the amounts payable and to settle any outstanding amounts due and payable relating to the insured SaXum vehicle. They are also to attend to the cancellation of ownership of the SaXum insured vehicle, if they wish to do so.

5. Claims against the SaXum insolvent estate

- 5.1 Policyholders who had a valid insurance policy at the date of liquidation of SaXum, have a claim against the SaXum estate.
- 5.2 Policyholders are referred to the First and Second Liquidation and Distribution Accounts that have been uploaded on the website www.saxuminsurance.com and specifically the Distribution Account to determine whether their claim has been proved against the SaXum insolvent estate.
- 5.3 In the event that your claim is not listed in the Distribution Account of the Second Account, you still have time to submit a liquidation claim. If a policyholder fails to submit a claim against the insolvent estate of SaXum, it must note that it will not be admitted as part of the proved creditors and accordingly not receive a distribution in the liquidation of SaXum.
- 5.4 To lodge a liquidation claim, a policyholder must sign and have commissioned an affidavit setting out the details of the liquidation claim. The signed and commissioned affidavit, together with supporting documents, must be sent by e-mail to sugne@honevinc.co.za. The original liquidation claim documents must be lodged at a meeting of creditors with the Master of the High Court. Therefore, following the electronic submission of any liquidation claims via e-mail, the original liquidation claim documents should also be sent to P.O. Box 4078, Rivonia, 2018 or to First City Katleho, 222 Rivonia Road, Entrance 1, Michelle Street, Block A, Ground Floor, Morningside Close, Morningside, 2196 for the attention of Mrs. Fatima Schafer.
- 5.5 Kindly note, that should the assessed insurance claim (as assessed by EOH-FS) be less than the claim submitted, the insurance claim as well as the liquidation claim will be reduced to the assessed amount, as determined by EOH-FS.
- 5.6 The liquidators are currently in the process of investigating all the liquidation claims submitted, and comparing same to the assessed amounts, in order to ascertain which claims must be reduced to the said assessed amounts. The reduced claims will be reflected in the Distribution Account of the Third Liquidation and Distribution Account, which will be drafted in due course.
- 5.7 All policyholders and creditors of the SaXum insolvent estate, will receive dividends in terms of a Liquidation and Distribution Account in due course. Once this account is confirmed by the Master of the High Court, payments will be made in terms of this confirmed account. Kindly note, that policyholders rank as concurrent creditors. Concurrent creditors rank equally and the total amount available for distribution will be divided proportionately between all the of the concurrent creditors.
- 5.8 The claim document that must be completed to submit a claim against the SaXum insolvent estate, can be found on the SaXum Insurance website as referred to above, as an annexure to Circular 3.
- 5.9 In the event that your name is reflected in the Distribution Account, you do not need to submit a new liquidation claim.

6. Recovery of funds from various third parties

- 6.1 We confirm that appropriate steps and proceedings have been initiated in order to recover funds that are due and payable to the SaXum insolvent estate from various third parties including

reinsurers of SaXum. Settlements have been reached with three of the reinsurers. The funds in terms of the first settlement was reflected in the Second Liquidation and Distribution Account. We are currently finalising documentation and payment in respect of the remaining two settlements. These funds will be reflected in a Third Liquidation and Distribution Account in due course.

6.2 There are pending proceedings against two further reinsurers, one in the process of going to mediation, and the liquidators' legal team is working tirelessly in order to expedite the finalization of these proceedings. Should the mediation not result in a resolution of the dispute and payment to SaXum, the parties will proceed to formal arbitration on the matter. Any funds recovered through these proceedings, will also be reflected in a Third or further Liquidation and Distribution Account.

7. **Liquidation and Distribution Accounts**

7.1 As referred to above, a First and a Second Liquidation and Distribution Account, have been confirmed by the Master of the High Court. Copies of these accounts can be found on the SaXum Insurance website, as referred to above.

7.2 No dividends were awarded to creditors in the First Account, as there was a shortfall carried forward to the Second Account. Dividends were however awarded to the employees based on the preferent portion of their claims, in terms of the Second Liquidation and Distribution Account.

7.3 As mentioned above, the liquidators are in the process of assessing whether any of the liquidation claims must be reduced to the amounts as assessed by EOH-FS. Once these reductions, as well as the pending litigation and arbitration matters as referred to in paragraph 6 above have been finalized, a Third Liquidation and Distribution Account will be drafted in terms whereof a dividend will be declared to concurrent creditors.

8. Taking all of the above into account, stakeholders of the SaXum insolvent estate are requested to be patient, enable the liquidators and their legal team to finalize all of the outstanding issues and, in particular, the outstanding recoveries from the two remaining reinsurers.

9. Stakeholders are further requested to kindly visit the SaXum Insurance website periodically, in order to ascertain whether further Circulars or information or documents have been uploaded for the stakeholders' attention.

10. We confirm that we will keep you apprised of any material developments by way of further Circulars uploaded onto the SaXum Insurance website.

Yours faithfully,

PER: N.A.G. OMAR N.O.

W.N. JACOBS N.O.

(sent electronically without signature)