

UMAs and insurer relationships

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UMAs act as insurers' agents

- They perform delegated functions on behalf of insurers.
- The relationship is governed by the applicable regulatory framework and the binder agreement.
- Underwriting managers may share in profits attributable to policies covered by the binder agreement.

LEGAL AUTHORITY

Old Mutual Alternative Risk Transfer Insure Ltd v SA Guarantee Specialists (Pty) Ltd and Another

(Western Cape High Court, unreported case no. 2025/127863)

"…insofar as SAGS was concluding policies in OMART's name, it was acting as its agent. It is well-established that an agent stands in a fiduciary relationship with their principal…" [98]

Fiduciary duty arises from the relationship

01 Definition & general principles

- Protects the vulnerable where another holds discretionary power over their interests.
- Arises from recognised status relationships or the facts of a particular relationship.
- The relationship—not the actor category—creates the duty; scope evolves with social norms, technology and markets.

02 Duties of a fiduciary

- Do not exceed or misuse powers, fetter discretion, or allow personal interests to conflict with duty.
- Act in the dependent's interests and for the purpose for which the power was given.
- Content depends on the relationship and circumstances; duties are not exhaustive.

UMA activities are tightly bounded

ACTIVITY SCOPE

Non-life UMAs under STIA

- Binder and intermediary services
- May not enter into, vary or renew policies

Life UMAs under LTIA

- Binder and intermediary services
- May not enter into, vary, renew, maintain or service policies

KEY RESTRICTIONS

- UMAs may not transact on the same policy with an associated MI or NMI, or its representative.
- UMAs may not hold binder agreements with multiple insurers in the same class unless all insurers agree.
- Sales through associates create a conflict of interest; intermediaries must therefore be independent.

Insurers retain responsibility for oversight

STIA and LTIA regulations impose strict oversight obligations on insurers.

01

Assess

Governance, risk management and technical expertise

02

Safeguard

Data validity, accuracy and security

03

Plan

Contingency measures to address identified shortcomings

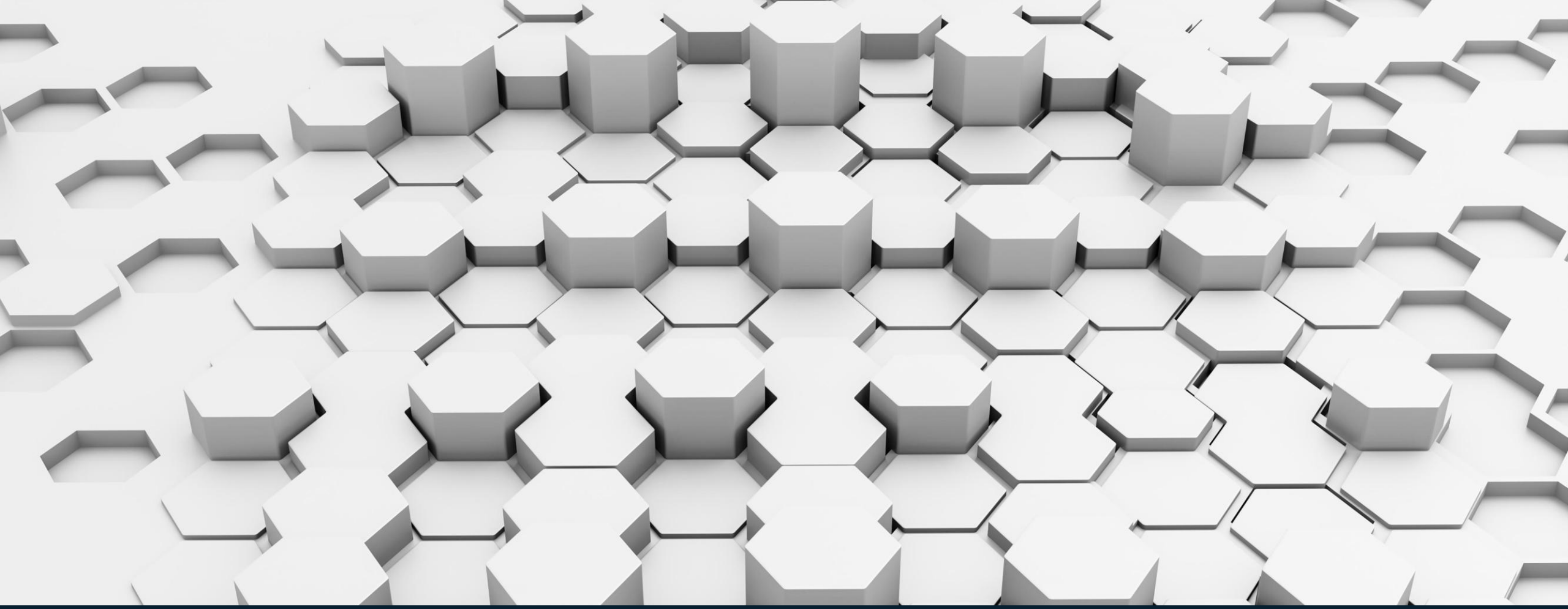
The COFI Bill may not fully address binder functions

PROPOSED SHIFT

- The COFI Bill is intended to repeal the STIA, LTIA and FAIS Act.
- It introduces activity-based licensing.
- UMA activities are mapped to general administration.

CURRENT LIMITATION

- Binder functions are not fully recognised in the Bill's current form.
- UMAs are not clearly contemplated.



Thank you

Questions and discussion

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