



ASISA STANDARD ON UNCLAIMED ASSETS

Approved by the Regulatory Affairs Board Committee 23 October 2018

1. Principles

- A customer's right to an unclaimed asset remains until the claim is paid or the asset returned, regardless of the timeframe.
- Unclaimed assets should not become the property of the product provider or its shareholders.
- The Standard does not create a definition of when an asset is 'unclaimed', but seeks to indicate when ASISA member companies should consider that it is possible that assets are unclaimed, and what proactive steps should be taken in order to address this possibility.

2. Primary aims of the Standard

The Standard sets out best practice guidelines that encourage timeous, proactive steps in order to:

- Enhance tracing procedures and other processes to ensure that customers are aware of and can be linked with their benefits, so as to keep unclaimed assets at a minimum level as far as possible;
- Enhance disclosure to customers in respect of the treatment of unclaimed assets;
- Provide clarity on the principles applied in determining the assumed investment return on unclaimed assets;
- Achieve consistent treatment, as far as practically possible, of unclaimed assets by ASISA member companies regardless of product categories.

3. ASISA member companies and products to which the Standard applies

Long-term insurance member companies, Collective Investment Scheme Management member companies and Linked Investment Service Providers in respect of risk policies, savings and investment policies, annuity policies, units in CIS portfolios and any other products issued to retail customers, except for retirement annuity fund and preservation fund products which are dealt with in terms of the Pension Funds Act 24 of 1956.

4. Effective date

- The Standard became effective for ASISA insurance member companies on 1 June 2013.
- The revised Standard became applicable to Collective Investment Scheme Management member companies and Linked Investment Service Providers from 1 January 2016.
- The enhancements incorporated in this updated version of the Standard are effective from 1 January 2019.

5. “Definition” of Unclaimed Assets

Defining unclaimed assets is not simple.

It is not always clear that assets have become forgotten or that potential beneficiaries or other people who are entitled to claim the assets are not aware of their existence. The Standard does not create a definition as such, but seeks to indicate when ASISA member companies should consider that it is possible that assets are unclaimed, and what proactive steps should be taken in order to address this possibility.

The date when ASISA member companies should consider assets to be at risk of being unclaimed is termed the “trigger date”, which is the date on which a “trigger event” occurs. These are events which require a proactive response from ASISA member companies to ascertain whether these assets are in fact ‘unclaimed’.

Trigger events

This is not the point at which an asset should be considered ‘unclaimed’ but a non-exhaustive list of examples of events that indicate that steps should be taken in case the customer or other person entitled to the product proceeds is not/ no longer aware of their entitlement:

- date of maturity for fixed term policy contracts,
- date of cessation of regular contributions/recurring-premium payments in respect of an open-ended contract,
- named beneficiaries cannot be located where a risk benefit claim has been admitted or in respect of another policy contract,
- date that annuity payment/income distribution payment/redemption or maturity payment is returned,
- post is returned,
- electronic communications are undelivered,
- the customer reaches age 80.

Each product provider should explicitly determine and document the trigger events that are appropriate to its business and products.

6. Action to be taken after trigger event

After the trigger event, appropriate action should be taken to establish whether the customer is still alive or aware of their entitlement in respect of the product.

At least the following actions should be considered and appropriate action taken within a reasonable period depending on the product and the circumstances. Again, this is to ascertain whether these assets are in fact ‘unclaimed’:

- a) Attempt to contact the customer telephonically and electronically to advise them of their available assets/contract;
- b) If unsuccessful in contact, determine last known contact information and address of the customer with reference to the company internal database and compare internal database with an external database, including use of internet search engines and social media;
- c) If the customer cannot be contacted then other activities could be used, such as an external tracing company, to trace the customer.

7. Logging of the assets as 'unclaimed'

After a reasonable period of time has passed, but no longer than three years, during which the above actions and/or other reasonable steps have been taken to establish whether a customer is still alive or aware of their entitlement in respect of the product without success, the assets should be identified as 'unclaimed'.

This is the "deemed date", i.e. the date on which the asset should be identified as 'unclaimed'.

8. Action to be taken when the asset has been identified as 'unclaimed'

Once an ASISA member company concludes that all reasonable efforts to trace the customer, heir or beneficiary have been exhausted, and in the case of life policies releases assets from the reserve backing an unclaimed benefit, the unclaimed assets:

- a) Should not be paid to shareholders or treated as income, but
- b) Should be utilized for socially responsible activities, in line with the guidelines below.

The assets may be invested in any appropriate vehicle within the context of South Africa's social development needs, such as:

- o Industry initiatives;
- o Enterprise Supplier Development Funds (high social impact with commercial return).

This paragraph will not be applicable in the cases of risk policies such as, for example, annuity policies, where the payment of the benefit ceases on the death of the policyholder/beneficiary (so that on death no asset exists), and the policyholder/beneficiary is deemed to have died.

9. Investment of and returns on the asset when identified as “unclaimed”

The investment of the assets must take into account:

- o the trigger event (date);
- o the context of the contractual arrangement;
- o the reasonable benefit expectation of the customer; and
- o the investment risk.

ASISA member companies should consider the specific product and circumstances in question and have regard to the guidelines below:

Long-term insurance risk policies:

- a) In the case of unclaimed risk benefit claims, where the policy contract or marketing material does not make any specific reference to the investment of the claim amount, the risk pool may be invested as the life company deems appropriate, as the company is carrying the risk. This is provided that any investment does not put the ability of the company to pay benefits or the financial soundness of the company at risk;
- b) Where the contract does make specific reference to any interest/ return payable on the claim amount the interest/return should be reasonable and in accordance with what reasonable customer expectations the company has or may have created (and should be greater than zero);
- c) Where the contract or marketing or other material does not make any specific reference to any interest/return payable on the claim amount, the claim amount will attract interest/return from the date that all requirements in order to confirm the validity and acceptance of the claim have been received and the claim admitted as valid. The rate payable needs to be reasonable and in relation to administration charge(s) together with market related interest rates;

Savings and Investment business:

- a) Where the contract or marketing material does not make any specific reference to the investment of the assets:
 - o Emphasis should be on meeting reasonable customers' benefit expectations across a range of market conditions – not one specific market condition (e.g. not only bear/bull market);
 - o Member company needs to consider what reasonable customer expectations it has or may have created.
- b) Where the customer is carrying the investment risk the assets should be invested taking cognizance of a reasonable customer's expectations, including, where appropriate and possible, their risk tolerance in the context of previous risk profile analyses;
- c) Where the member company is carrying the investment risk:
 - o The company may invest the assets as it deems appropriate, provided that it does not put the company's ability to meet its commitments at risk;

- The return that is provided to the customer should take cognizance of a customer's reasonable expectations;
- Where applicable, the return that is provided to the customer should be in line with the company's published Principles and Practices of Financial Management (PPFM);
- The company may invest the assets in any appropriate vehicle.

10. Disclosures to be made to customers

ASISA member companies should make appropriate and relevant disclosures to customers.

New Business stage

- a) Policy documents and any other new business contract documentation should include appropriate information on unpaid or unclaimed benefits;
- b) It should be clear that the customer is and will remain responsible for ensuring that their contact information is kept up to date;
- c) ASISA member companies should disclose that actions will be taken to trace customers in the event of assets being unclaimed;
- d) ASISA member companies should disclose that there will be direct administrative, tracing and management costs associated with unclaimed assets and that these may change over time;
- e) ASISA member companies will need to expressly indicate as a condition of investment, that such member company may recover any reasonable direct administrative, tracing and management costs from the customer by a deduction from the value of the investment on an ongoing basis or once the customer has been located, should this be the intention;
- f) It is recommended that ASISA member companies obtain the customer's consent to use the customer's personal information to facilitate tracing where required in the future. Such consent should allow for sharing of personal information and ensure compliance with the Protection of Personal Information legislation;
- g) Consideration should be given to requesting "next of kin" information to assist with location of the customer should the need arise;
- h) Following the implementation of the Standard, all Risk policies should make specific reference to the interest/enhancements payable on the claim amount;
- i) Following the implementation of the Standard all Investment contracts should make specific reference to:
 - the investment of the claim amount/assets (where the customer is carrying the investment risk), and
 - the interest/enhancements payable on the claim amount.

On-going – existing customers

- a) Annual communication to customers as well as maturity letters and any other ongoing communication with customers should, where appropriate, include information on unclaimed assets;
- b) The disclosure should highlight any contractual obligations on the part of the ASISA member company and the customer in respect of unclaimed assets. Any relevant contractual issues (e.g. non-extendable maturity date) should be highlighted and consequences of these contractual issues explained;
- c) The disclosure should make it clear that the customer is and remains responsible for ensuring that their contact information is kept up to date;
- d) If consent from the customer has not already been obtained, ASISA member companies should endeavour to obtain the required written consent from the customer in order to use the customer's personal information to facilitate tracing where required in the future;
- e) Disclosures should include a reference to investments and costs applicable to benefits that become unclaimed.

11. Charges to customers for costs of tracing

Unless the customer has specifically agreed, no costs of tracing should be claimed from policies or other assets except where, in the case of policies, the policy document made it clear that such deduction would be made, and in the case of other assets, the customer contract permitted the product provider to deduct the cost of the tracing from the value of the customer's assets.

12. Record-keeping

ASISA member companies need to retain records that allow the tracing process to be audited and verified by the company's internal compliance/audit functions.

13. Reporting on Unclaimed Assets

ASISA member companies should report data relating to unclaimed assets to ASISA on an annual basis within 3 months from the end of the year in the format set out below.

Statistics provided to ASISA by member companies are confidential and member specific data will not be shared. Aggregated data may be made available to the Financial Sector Conduct Authority ('FSCA') or any other regulatory authority on request.

For the year ending on 31 December 2018:

	Number of products*	Aggregated Rand value
Assets traced/located between 1 January 2018 and 31 December 2018		
Assets being traced / still to be located as at 31 December 2018		

* Please note: Although one product may have more than one beneficiary, it is still to be counted as one product. (Where some beneficiaries of the same product are still being traced, the fact that others have been located will reflect in the reduced rand value in the next column.)

For the year ending on 31 December 2019 and the years thereafter:

	Number of products*	Aggregate Rand value
Assets being traced / still to be located as at 31 December 2018		
Assets first identified as unclaimed between 1 January 2019 to 31 December 2019		
Assets traced/located between 1 January 2019 to 31 December 2019		
Assets being traced / still to be located as at 31 December 2019		

* Please note: Although one product may have more than one beneficiary, it is still to be counted as one product. (Where some beneficiaries of the same product are still being traced, the fact that others have been located will reflect in the reduced rand value in the next column.)

14. Consumer education

- ASISA member companies are encouraged to participate in a general public education drive to inform the public about unclaimed assets and what it means to them;
- This should focus on alerting customers to the possibility of having assets due to them and how to go about trying to find out if there are any benefits due;
- There should be a process/mechanism for customers to be able to update their personal contact information with ASISA member companies in response to this campaign;
- ASISA member companies are encouraged to have appropriate communication on their individual websites highlighting the importance of keeping their details up to date and the problems that can arise if this is not done, as well as the processes available within their organisation.