

LEGAL NOTICE NO.....

**THE INSURANCE ACT**

*(Cap. 487)*

**THE SUITABILITY OF KEY PERSONS GUIDELINES, 2018**

**IN EXERCISE** of the powers conferred by section 3A(a), (b) and (g) of the Insurance Act, the Insurance Regulatory Authority issues the following guidelines—

**THE SUITABILITY OF KEY PERSONS GUIDELINES, 2018**

1. These guidelines may be cited as the Suitability of Key Persons Guidelines, 2018. Citation.
2. In these guidelines, unless the context otherwise requires— Interpretation.  
  
“**Key persons**” include significant owners, board members, management and heads of control functions.
3. The purpose of these guidelines is to ensure that all key persons remain suitable to fulfil their respective roles. Objectives
4. The regulated entity shall continually assess the suitability of key persons remain suitable to fulfil their respective roles. Introduction
5. The regulated entity shall continually assess the suitability of key persons on the basis of competence, financial soundness and integrity to fulfil their respective roles and submit the assessment to the Authority. Introduction

6. Competence shall be judged from the level of an individual's professional qualifications, knowledge, skills and relevant experience.
7. Financial soundness shall be the ascertained through assessment of the source of financing and future access to capital. Key Requirements
8. Integrity shall be demonstrated through evidence in character, personal behaviour and business conduct.
9. An entity shall have appropriate procedures for suitability assessment of the key persons.
10. An entity shall demonstrate, as and when required, the suitability of key persons.
11. An entity shall within seven days notify the Authority of any changes or circumstances that may adversely affect the suitability of key persons. Notification
12. An entity shall not appoint any key person without the prior written approval of the Authority. Reporting Requirements
13. An entity shall within seven days notify the Authority of the resignation or replacement of a key person and give reasons for the resignation or replacement.
14. An entity shall at the point of seeking approval of appointment of keypersons, submit a formal statement that each of the tests has been performed and, where necessary, further investigations have been conducted.
15. Where the Authority determines non-compliance with the provisions of these guidelines, it may take any intervention prescribed in the Act. Enforcement.
16. Where the Authority determines non-compliance with the provisions of these guidelines, the Authority may issue such directives as it Remedial Measures.

considers necessary to protect policyholders in accordance with the Insurance Act.

17. Where the Authority determines that the regulated entity has not met the requirements of this guidelines, the Authority may impose any or all of administrative sanctions to correct the situation in accordance with the provisions of the Insurance Act, including but not limited to \_ Administrative Sanctions.
- (1) Directing that the entity takes appropriate remedial action.
  - (2) Rejecting, delaying, suspending or revoking the appointment of a key person;
  - (3) Withdraw or impose conditions on the business license taking into account the nature of the breach of suitability requirements.
  - (4) Take other action as may deemed necessary.
  - (5) Monetary penalties not exceeding Kenya Shillings one million.
18. Additional administrative sanctions apply to Significant Owners who do not meet or no longer meet suitability requirements. These include, but are not limited to:
- (1) Requiring the Significant Owners to dispose of their interests in the regulated entity within a specified period of time;
  - (2) The suspension of the exercise of their corresponding voting rights;
  - (3) The nullification of any votes cast or the possibility of their annulment;
  - (4) Prohibition from declaring and paying dividends.

Fit and Proper Assessment Form to be completed the appointed actuary of the entity.

Fit and Proper Form

**Please answer all the questions by placing a tick (✓) in the appropriate column, sign the form and send it to the Authority. All “YES” answers must be explained.**

<b>Name of Key Person</b> .....		
<b>Regulated Entity</b> .....		
<b>Key Position</b> .....		
1. Have you been licensed or registered under any law which requires licensing or registration in relation to any regulated business?	Yes	No
Please provide details		
2. Have you been refused the right or restricted in your right to carry on any trade, business or profession for which a specific licence, registration or other authorization is required by law in any jurisdiction?	Yes	No
Please provide details		
3. Have you been issued a prohibition order under any law or has been prohibited from operating in other jurisdiction by any regulatory authority?	Yes	No
Please provide details		

4. Have you been censured, disciplined, suspended or refused registration by the Authority or any other regulatory authority, in Kenya or elsewhere?	Yes	No
Please provide details		
5. Have you been the subject of any complaint made reasonably and in good faith relating to activities regulated by the Authority or under any law in any jurisdiction?	Yes	No
Please provide details		
6. Have you been the subject of any proceedings of a disciplinary or criminal nature or have been notified of any potential proceedings or of any investigation which might lead to those proceedings, under any law in any jurisdiction; of misfeasance or serious misconduct?	Yes	No
Please provide details		
7. Have you been convicted of any offence, or been subject to any pending proceedings which may lead to such a conviction, under any law in any jurisdiction?	Yes	No
Please provide details		
8. Have you had any judgment (including a finding of fraud, misrepresentation, or dishonesty) entered against you in any civil proceedings or are you a party to any pending proceedings which may lead to such a judgment, under any law in any jurisdiction?	Yes	No
Please provide details		
9. Have you had any civil penalty enforcement action taken against you by the Authority or any other regulatory authority under any law in any jurisdiction?	Yes	No

Please provide details		
10. Have you ever contravened or abetted another person in breach of any laws or regulations, business rules or codes of conduct, in Kenya or elsewhere?	Yes	No
Please provide details		
11. Have you ever been the subject of any investigations or disciplinary proceedings or been issued a warning or reprimand by any regulatory authority, an operator of a market or clearing facility, professional body or government agency, in Kenya or elsewhere?	Yes	No
Please provide details		
12. Have you ever been refused a fidelity or surety bond, in Kenya or elsewhere?	Yes	No
Please provide details		
13. Have you ever been a director, partner or concerned in the management of a business that has been censured, disciplined, suspended or refused membership or registration by any regulatory authority, professional body or government agency, in Kenya or elsewhere?	Yes	No
Please provide details		
14. Have you been a director, partner or concerned in the management of a business that has gone into insolvency, liquidation or administration during the period when, or within a	Yes	No

period of one year after, you were a director, partner or concerned in the management of the business, in Kenya or elsewhere?		
Please provide details		
15. Have you ever been dismissed or asked to resign, from office, employment, a position of trust, or a fiduciary appointment or similar position, in Kenya or elsewhere?	Yes	No
Please provide details		
16. Have you ever been subject to disciplinary proceedings by your current or former employer(s), in Kenya or elsewhere?	Yes	No
Please provide details		
17. Have you ever been disqualified from acting as a director or disqualified from acting in any managerial capacity, in Kenya or elsewhere?	Yes	No
Please provide details		
18. Have you ever been found liable for an offence committed by a body corporate as a result of the offence having proved to have been committed with the consent or connivance of, or neglect attributable to yourself in Kenya or elsewhere?	Yes	No
Please provide details		
19. Are you unable to fulfil any financial obligations, in Kenya or elsewhere?	Yes	No
Please provide details		

20. Are you subject to a judgment debt which is unsatisfied, either in whole or in part, in Kenya or elsewhere?	Yes	No
Please provide details		

**Signature and acknowledgement**

- a. I am aware that it is an offence to knowingly or recklessly provide any information, which is false or misleading in connection with an application for an approval to an appointed actuary of an insurer.
- b. I am also aware that provision of false information in this regard may result in rejection of this application by the Authority.
- c. I certify that the information given above is complete and accurate to the best of my knowledge, and that there are no other facts relevant to this application of which the Authority should be aware.
- d. I undertake to inform the authority of any changes material to the applications which arise while the application is under consideration.

**Key Person**

Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/20\_\_

**Principal Officer/Company Secretary**

Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/20\_\_

In the presence of ;

**Commissioner of Oaths**

Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/20\_\_



Issued on the .....2018.

**ABDIRAHIN H ABDI**  
*Chairman,*  
*Insurance Regulatory Authority.*

**GODFREY K KIPTUM**  
*Ag. CEO & Commissioner of Insurance*  
*Insurance Regulatory Authority.*