

LEGAL NOTICE NO.....

**THE INSURANCE ACT**

*(Cap. 487)*

**THE REINSURANCE ARRANGEMENTS 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 REINSURANCE ARRANGEMENTS GUIDELINES, 2018**

1. These guidelines may be cited as the Reinsurance Arrangements Guidelines, 2018. Citation.

2. In these guidelines, unless the context otherwise requires— Interpretation.

“**Cedant**” means an insurer who enters into a reinsurance arrangement with a reinsurer;

“**Cut-through**” means reinsurance contract provision that allows a party other than the cedant and the reinsurer to have rights under the reinsurance contract.

“**Facultative Reinsurance**” means reinsurance of individual risks by offer and acceptance;

“**Fronting Arrangements**” means a reinsurance arrangement where the cedant transfers the entire risk to a reinsurer ;

“**Maximum Event Retention**” means the maximum amount retained, calculated separately by class of business, by the insurer in respect of the accumulation of all losses arising from a defined event;

“**Retention**” means the amount of risk which a cedant or a reinsurer keeps for its own account;

“**Treaty Reinsurance**” means a binding reinsurance agreement

between a cedant and a reinsurer;

3. The purpose of these guidelines is to set- Objectives.
  - (1) standards for the use of reinsurance and other forms of risk transfer;
  - (2) standards to be applied to manage the selection, implementation, monitoring, review, control and documentation of reinsurance arrangements; and
  - (3) controls and reporting standards for risk transfer programmes.
  
4. Reinsurance arrangements shall take the following issues into account: General Principles
  - (1) The financial strength and claims payment ability of the reinsurers in question;
  - (2) The risk and capital management strategy of the cedant;
  - (3) The appropriateness of the reinsurance strategy given the underlying insurance portfolios;
  - (4) The structure of the reinsurance programme;
  - (5) The extent to which relevant functions are outsourced;
  - (6) The levels of aggregate exposure to a single reinsurer or different reinsurers being part of the same group;
  - (7) The proportion of business ceded so that the net risks retained are commensurate with the insurer's financial resources;
  - (8) The resilience of the reinsurance programme in stressed claims situations;
  - (9) The extent of any credit risk mitigation in place;
  - (10) Processes for:

- (a) timely and complete reporting and settlements;
  - (b) approving, monitoring and confirming the placement of facultative reinsurance;
  - (c) monitoring the performance and potential exhaustion of its reinsurance programme; and
  - (d) ensuring that it has accurate and complete reinsurance documentation of contract terms and conditions.
- (11) The mismatch risk between the underlying policies and the reinsurance contracts;
- (12) Controls of reinsurance arrangements suitable in the context of the nature, scale and complexity of the business and the extent of their reinsurance exposures.
5. The roles and responsibilities of the board of directors with regard to an insurer's reinsurance arrangements shall be to — Responsibility of the Board of Directors.
- (1) Develop a reinsurance management strategy and ensure it is implemented.
  - (2) Establish appropriate monitoring mechanisms to ensure that the strategy is being delivered and complied with;
  - (3) Review the reinsurance strategy at least biennially and whenever there have been material changes in the company's circumstances;
  - (4) Ensure regular reviews of the performance of the reinsurance programme, to ensure that it functions as intended and continues to meet its strategic objectives;
  - (5) Put in place an appropriate reinsurance function for the day-to-day management of the reinsurance programme. The head of the reinsurance function shall have a minimum qualification of certificate of proficiency in reinsurance practice from a recognised institution.
  - (6) Set limits on the net risk to be retained per class of business and aggregate for the company;

- (7) Determine the maximum foreseeable amount of reinsurance protection to be obtained from approved reinsurers.
- (8) Seek the advice of Appointed Actuary on the soundness of risk and capital management strategy before entering into, modifying or terminating a reinsurance arrangement.

6. The roles and responsibilities of management with regard to insurer's reinsurance arrangements are to — Responsibility of management.

- (1) Implement the insurer's reinsurance management strategy;
- (2) Develop and implement procedures with respect to reinsurance arrangements;
- (3) Periodically analyse and assess the quality and performance of reinsurance arrangements and report to the Board on a regular basis and upon request;
- (4) Set underwriting guidelines that specify the types of insurance to be underwritten, policy terms and conditions, and aggregate exposure by class of business;
- (5) Establish and document limits on the amount and type of insurance that will be covered by treaty reinsurance;
- (6) Establish and document criteria for placing and accepting facultative cover; and
- (7) Establish internal control mechanisms to ensure that reinsurance arrangements comply with the reinsurance management strategy and procedures and with legal and regulatory requirements.

7. Insurer's reinsurance management strategy shall be part of the risk and capital management strategy Reinsurance Management Strategy

8. Every insurer shall have a written reinsurance management strategy, approved by the company's Board of Directors that is appropriate to the insurer's overall risk profile.

9. At a minimum, the reinsurance management strategy of an insurer

shall:

- (1) Identify the insurer's risk tolerance;
- (2) Identify the level of cessions appropriate for the insurer's risk tolerance;
- (3) Identify, and clearly articulate, any other reasons for seeking reinsurance cover, such as risk diversification, financing of new business or expertise transfer;
- (4) Determine the types of reinsurance arrangements that are appropriate to the insurer's risk tolerance;
- (5) Set out how liquidity will be managed where there is a timing mismatch between the payment of claims and the receipt of reinsurance recoveries;
- (6) Consider peak exposures and seasonality in the insurance book;
- (7) Consider appetite for credit risk; and
- (8) Consider the capital management strategy.

10. The reinsurance management strategy shall define and document the insurer's approach for reinsurance management framework, identifying the procedures for:

- (1) The reinsurance cover(s) to be purchased;
- (2) The selection process of reinsurers;
- (3) The collateral required from the reinsurer at any given time; and
- (4) Monitoring reinsurance programs, including reporting and internal control systems.

11. Insurers may enter into inward reinsurance arrangements, provided that:

Reinsurance  
Arrangements.

- (1) Any such arrangements are clearly identified and fully taken into account in the insurer's reinsurance strategy;

- (2) The insurer has provided for adequate reserving for any inward reinsurance business; and
- (3) The terms and conditions of the reinsurance cover must be compatible with those of the underlying insurance business in order to avoid mismatch risk.

12. In calculating the quantum of reinsurance cover required, insurers shall apply the following methodology:

- (1) A calculation of the quantum of maximum loss arising from the catastrophic event determined by the Board to be the most financially damaging to the insurer;
- (2) In calculating the maximum loss, the Board shall include the impact of this catastrophic event on all classes of business underwritten by the insurer;
- (3) Establishing the maximum event retention.
- (4) Effect reinsurance cover between the maximum loss and the maximum event retention.

13. The insurer must have in place written procedures in respect of:

- (1) Timely payments of reinsurance premiums to reinsurers; and
- (2) Timely recovery of reinsurance claims.

14. The insurer must put in place adequate internal control systems to ensure that: Internal controls.

- (1) All underwriting is carried out in accordance with company policy;
- (2) Planned reinsurance cover is in place at all times;
- (3) Claims are reported to the reinsurer in a timely manner and in accordance with the reinsurance agreement;
- (4) Reinsurance claims payments are being promptly recovered; and
- (5) Material deviations from items (1) to (4) above are identified and

reported to Management and the Board of Directors.

15. Insurers are prohibited from entering into reinsurance arrangements whereby no insurance risk is transferred from the direct insurer to the reinsurer. Prohibited Practices
16. Fronting arrangements are prohibited, unless approved by the Authority in writing.
17. In requesting for approval, each fronting arrangement must be submitted to the Authority in writing and the insurer shall maintain collateral in form of government securities under lien in favour of the Authority equivalent to 10% of the reinsurance premium.
18. The insurer shall put in place measures intended to protect the policyholders including but not limited to the use of cut-through provisions.
19. An insurer shall review and submit its Reinsurance Management Strategy to the Authority biennially. Reporting Requirements.
20. An insurer shall submit reinsurance arrangements for the following year to the Authority on or before the 15<sup>th</sup> day of December every year.
21. The reinsurance strategy and arrangements must be certified by the appointed Actuary.
22. Where the Authority determines non-compliance with the provisions of these guidelines, it may take any intervention prescribed in the Act. Enforcement.
23. Where the Authority determines that the insurer's non-compliance with the provisions of these guidelines impacts on the insurer's ability to discharge its obligations, the Authority may issue such directives which it considers necessary to protect policyholders in accordance with the Act. Remedial measures.
24. Where the Authority determines that an insurer has not met the provisions of these guidelines, the Authority may impose any or all of the administrative sanctions to correct the situation in accordance with Administrative sanctions.

the Act, including—

- (1) require an insurer to invest in a specified manner;
- (2) restrict or prohibit an insurer from investing in certain asset classes or individual assets to safeguard insurance funds;
- (3) suspend, dismiss, disqualify or revoke the appointment of an individual in a position as board member, management or key person in a control function;
- (4) impose additional reporting requirements;
- (5) withdraw or impose conditions on the business license; and
- (6) Take any other action as may be deemed necessary.
- (7) Monetary penalties not exceeding Kenya Shillings One Million

Issued on the ....., 2018.

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

**GODFREY K KIPTUM**  
*Ag. Chief Executive Officer &  
Insurance Regulatory Authority.*