

POLICYHOLDERS COMPENSATION FUND (PHCF)

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AT THE INSURANCE AGENTS' FORUM
AT PANARI HOTEL, NAIROBI
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ILLUSTRATION

BIMA BORA INSURANCE CO. LTD

Authorization Date: 30/11/2010

DEBIT NOTE No. xxx

Insured: A.N. Other

Policy Number: XXX/XXX/XXX

Regarding: RENEWAL PREMIUM

Class of Business: XXX

Cover From: 30/11/2010

To: 29/11/2011

Currency: KShs.

Basic Premium 10,000.00

PHCFund 25.00

Training Levy 20.00

NET AMOUNT DUE 10,045.00

OBJECTIVES

- Introduction
- About the Fund
- Contributions
- Compensation
- Recent Developments

INTRODUCTION

Pre 2005

- Collapse of several Insurance Companies.
- Thousands of **policyholders exposed to risks** they had insured against.
- Life insurance policyholders – **loss** of whole life-time investments
- Motor Vehicle policyholders – exposure to third-party risks
- **Loss** to non-life policyholders
- **Negative effects** to the economy

INTRODUCTION

- **Decision to establish a compensation scheme to:**
 - 1. Relieve policyholders “partially” from the suffering they undergo when an Insurance Company collapses.**
 - 2. Promote confidence in the insurance industry.**

INTRODUCTION

- Establishment of the POLICYHOLDERS COMPENSATION FUND(PHCF) on 24th September, 2004 through a Legal Notice No. 105 by the Minister of Finance through the powers conferred by section 179 (2) of the Insurance Act.
- The Fund is a creation of a statute which is currently in force and operations commenced on 1st January 2005.

ABOUT PHCF

Purpose of the Fund

- **Primary purpose is to protect policyholders of an insolvent Insurance Company by providing them with compensation for unsettled claims.**
- **Secondary purpose is to promote confidence in the insurance industry by safeguarding the interests of policyholders.**

ABOUT PHCF

Stakeholders of the Fund

1. POLICYHOLDERS

- **Beneficiaries:** The fund compensates the unsettled claims of policyholders of Insurers which become insolvent.
- **Contributors:** Policyholders are at the moment required to contribute to the Fund 0.25% of the premium payable every month.

ABOUT PHCF

Stakeholders of the Fund

2. INSURANCE COMPANIES

- **Providers** of insurance policies.
- **Contribute** to the fund a sum equivalent to 0.25% of the premiums paid by the respective policyholders every month.
- **Benefit** from the enhanced confidence of customers in insurance business.

ABOUT PHCF

Stakeholders of the Fund

3. THE GOVERNMENT

- The fund is a **creation** of the government.
- It is the government's interest to **promote insurance business** by safeguarding the interest of policyholders.
- The compensation scheme places Kenya at a **competitive advantage** in Africa - currently no other country has such a scheme.
- **Funding:** The government may be required to fund the operations of the Scheme from time to time.

ABOUT PHCF

Stakeholders of the Fund

4. OTHER STAKEHOLDERS

- **Insurance Regulatory Authority (IRA)**
- **Association of Kenya Insurers (AKI)**
- **Insurance Brokers**
- **Insurance Loss Adjusters**
- **Retirement Benefits Authority (RBA)**
- **Insurance Agents???**

ABOUT PHCF

Administration of the Fund

MINISTER OF FINANCE

PHCF BOARD OF TRUSTEES

MANAGING TRUSTEE

SECRETARIAT STAFF

ABOUT PHCF

Board of Trustees

- i. An independent Chairman appointed by the Minister.
- ii. The Commissioner of Insurance/ CEO I.R.A
- iii. A representative of General Insurers
- iv. A representative of Long term Insurers
- v. A representative of Insurance Brokers
- vi. A representative of Loss Adjusters
- vii. The Permanent Secretary to the Treasury
- viii. A representative of interests the Minister deems appropriate (Currently a Lawyer)

ABOUT PHCF

Funding

- **Contributions:** Monthly contributions paid by policyholders & Insurance Companies.
- **Penalties** payable under the Insurance Act & PHCF regulations.
- **Interest** from the investment of Surplus assets.
- **Government:** Monies appropriated by Parliament.
- **Grants or Donations**

ABOUT PHCF

Financial Provision

- Public Funds
- Fund audited by Controller and Auditor General
- Full compliance to:
 - i. The State Corporations Act (Cap 446)
 - ii. The Exchequer and Audit Act (Cap 412)
 - iii. Trustees Act (Cap 167)

CONTRIBUTIONS

- Every policyholder and insurance Company shall contribute to the Fund.
- Policyholders contribution shall be 0.25% of premium payable.
- Insurers contribution shall be 0.25% of premium received.
- Insurer shall collect and remit both contributions to the Fund monthly.

CONTRIBUTIONS

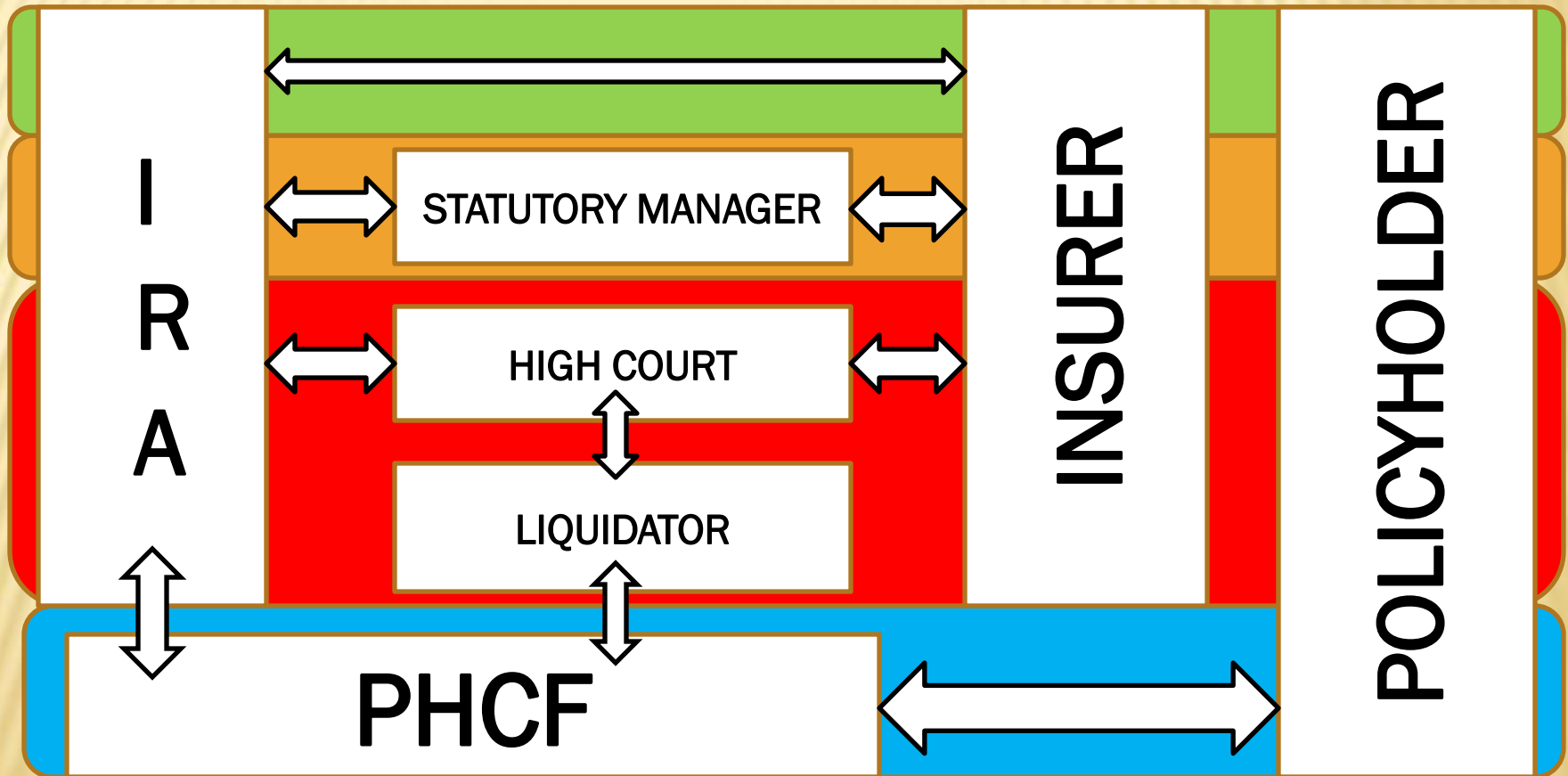
- Failure or delay in paying the contribution within 1 month of date due results in a 5% penalty charge.
- Failure to submit monthly or annual returns results in a 2.5% penalty charge.
- Total Contributions collected as at 30th June 2010 - KShs. 1.036 billion.
- General Business - KShs. 928 million
- Long Term Business – KShs. 108 million

COMPENSATION

- The Fund shall only compensate when an insurer becomes insolvent.
- An insurer shall be considered insolvent if:
 - i) It is wound up by the courts due to its inability to pay its debts.
 - ii) It does not meet solvency requirements set out in the Insurance Act.
 - iii) It is voluntarily wound up in a meeting of creditors (General Business)

COMPENSATION

The Process of Winding Up



It is thus a scheme of last resort.

COMPENSATION

Eligible Claimants

- Any Policyholder holding a Kenyan policy may claim from the Fund
except
- Claims arising before the fund commenced its operations
- A policy of re-insurance.
- A superannuation scheme.

COMPENSATION

Conditions of Compensation

- Compliance of the policyholder with any conditions imposed by the Board.
- Assignment of any rights a policyholder may have under or in respect of the policy.
- Any payment related to any liability of the insolvent insurer made to the policyholder, by any person other than the Board, may be considered as payment in whole or in part of the compensation payable.

COMPENSATION

Procedure for making a Claim

- Claims shall be submitted to the Managing Trustee
- in writing
- in the prescribed form
- with all relevant documentation
- Claimants must observe utmost good faith by making an honest disclosure.
- Avail any other information, whether on oath or otherwise.

COMPENSATION

Payment

- Amounts payable as Compensation shall be determined by the Board in consultation with the Minister.
- Amounts are based on different classes of insurance policies.
- Amounts payable shall be published by notice in the Gazette.

COMPENSATION

Time Limit

- A policyholder has up to **TWO(2)** years from the date of insolvency of an insurer to lodge a claim with the Fund.
- No claim made after the lapse of 2 years is entitled for any compensation from the Fund.

COMPENSATION

Limitations to Compensation

- No compensation shall be paid if the liability of an insolvent insurer to the policyholders is duplicated by the liability of any other insurer that is not insolvent.
- No compensation shall be paid for claims arising from incidents occurring on or after the date of appointment of a statutory manager.

RECENT DEVELOPMENTS

- Amendment of the Insurance (Policyholders' Compensation Fund) Regulations.
- Amendments in section 179 of the Insurance Act (Finance Bill 2010)
- Public Education Campaign
 - i) Sensitize the public on the mandate of the Fund
 - ii) Promote Confidence in the Insurance Sector
 - iii) Promote the Image of the Fund.

THANK YOU

QUESTIONS???

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