

CLIENT'S COMPENSATION

JOHN KEAH

POLICYHOLDERS COMPENSATION FUND

INSURANCE FORUM FOR TEACHERS, MOMBASA

11TH NOVEMBER , 2011

ICE BREAKER

SHARE YOUR

PERCEPTION OF INSURANCE

PRESENTATION

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

BACKGROUND

- **Insurance Sector characterized by the collapse of several Insurance Companies.**
- **Policyholders exposed to risks they had insured against.**
- **Long term insurance policyholders – loss of life time savings & investments**
- **General insurance policyholders – loss of assets & wealth**
- **Negative effects to the economy**
- **Negative perception towards Insurance.**

BACKGROUND

- Need to establish a compensation scheme to:
 1. Relieve policyholders from the losses they suffer when an Insurance Company collapses.
 2. Promote confidence in the insurance industry.

INTRODUCTION

- **Establishment of the POLICYHOLDERS COMPENSATION FUND(PHCF) on 24th September, 2004.**
- **A State Corporation created within provisions of the Insurance Act.**
- **Commenced operations on 1st January 2005.**

ABOUT PHCF

Purpose of the Fund

ABOUT PHCF – PURPOSE

Primary purpose

Protect policyholders of an insolvent Insurance Company by paying them compensation for unsettled claims.

ABOUT PHCF - PURPOSE

Secondary purpose

Develop the insurance industry through:

- i) **Promoting confidence** by safeguarding the interests of policyholders.
- ii) Advising on formulation and implementation of policies regarding compensation of policyholders.

ABOUT PHCF

Stakeholders Of The Fund

ABOUT PHCF - STAKEHOLDERS

POLICYHOLDERS (CLIENTS)

- **Beneficiaries:** The fund pays compensation for the unsettled claims of policyholders of Insurers which become insolvent.
- **Contributors:** Through payment of premiums, Policyholders contribute to the Fund 0.25% of the gross premium.

ILLUSTRATION

BIMA BORA INSURANCE CO. LTD

Authorization Date: 22/09/2011

DEBIT NOTE No. xxx

Insured: A.N. Other

Policy Number: XXX/XXX/XXX

Regarding: RENEWAL PREMIUM

Class of Business: XXX

Cover From: 22/09/2011

To: 21/09/2012

Currency:

KShs.

Basic Premium

10,000.00

PHCFund 25.00

Training Levy 20.00

NET AMOUNT DUE 10,045.00

ABOUT PHCF - STAKEHOLDERS

INSURANCE COMPANIES

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

ABOUT PHCF - STAKEHOLDERS

THE GOVERNMENT

- The Fund is a **creation** of the government.
- Government's interest is to **promote insurance business** by safeguarding the interest of policyholders.
- **Funding:** The government may be required to fund the operations of the Scheme from time to time.

ABOUT PHCF - STAKEHOLDERS

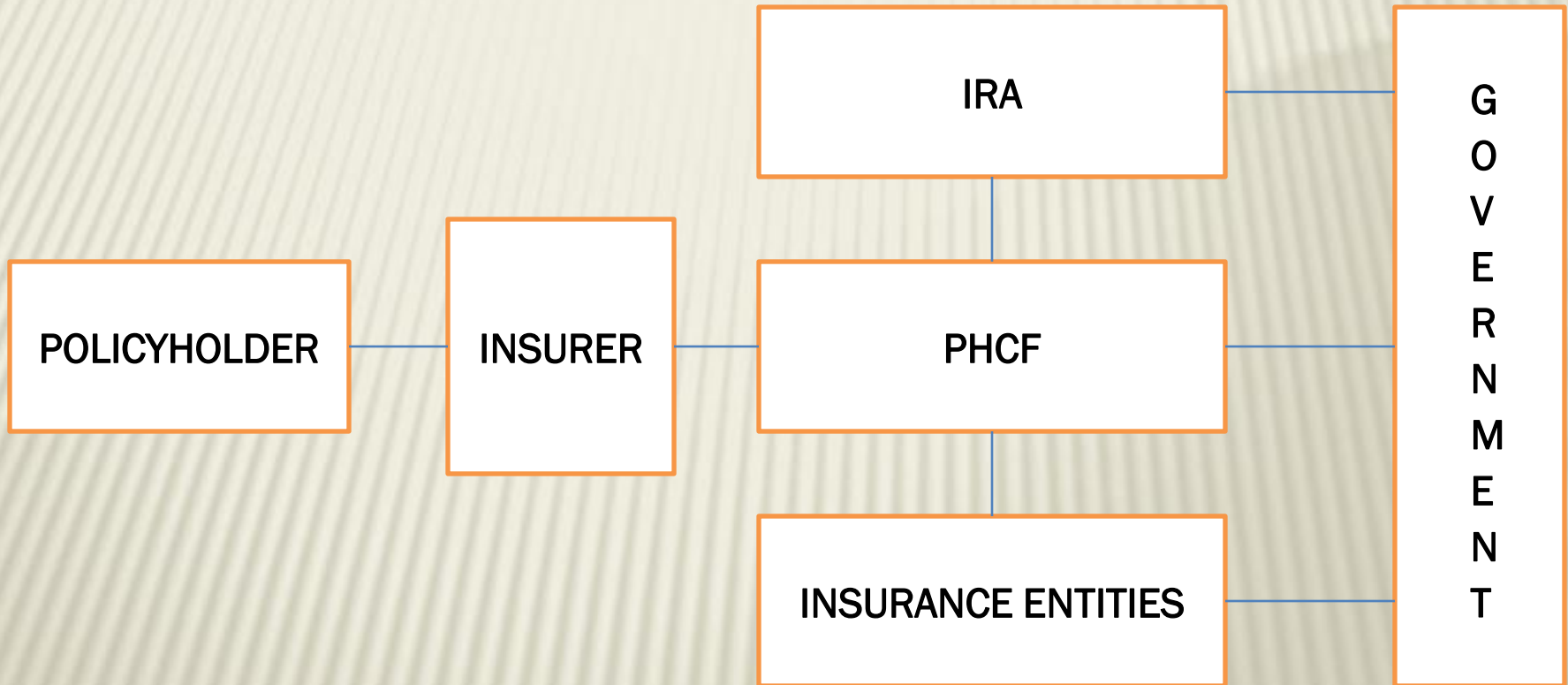
INSURANCE REGULATORY AUTHORITY

- **Strategic Partners**

INSURANCE ENTITIES

- **Receiver Managers**
- **Liquidators**
- **Loss Assessors**

ABOUT PHCF – STAKEHOLDER RELATIONSHIP



ABOUT PHCF - FUNDING

- **Contributions:** Monthly contributions paid by policyholders & Insurance Companies.
- **Penalties** paid by Insurance entities for breaching the laws.
- **Interest** from the investment of Surplus assets.
- **Government:** Monies appropriated by Parliament.
- **Grants or Donations**

CONTRIBUTIONS

- Main source of Funding.
- Every policyholder and insurance Company shall contribute to the Fund an amount equivalent to 0.25% of the premium payable.
- Insurer shall collect and remit both contributions to the Fund monthly.

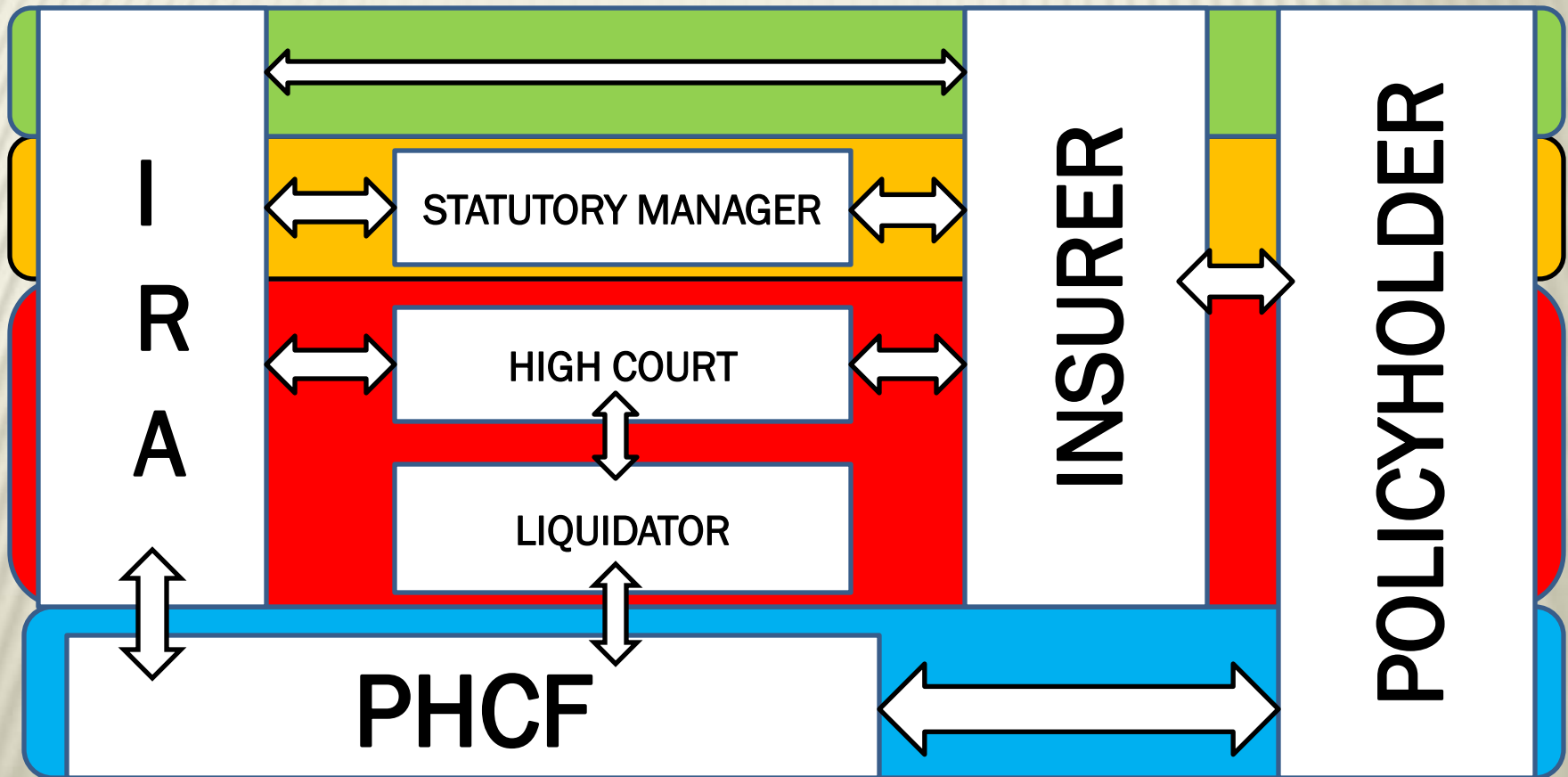
CONTRIBUTIONS

- Total Contributions collected as at 30th June 2011 - **KShs. 1.5 billion.**
- General Business - KShs. 1.35 Billion
- Long Term Business – KShs. 150 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.

COMPENSATION – INSOLVENCY PROCESS



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 in 2005.
- Claims arising after an insurer is placed under statutory management.
- A policy of re-insurance.
- A superannuation scheme.

COMPENSATION – POLICIES COVERED

LONG TERM INSURANCE POLICIES	GENERAL INSURANCE POLICIES
Bond Investment	Aviation Insurance
Industrial Life Assurance	Engineering insurance
Ordinary Life Assurance	Fire Insurance
Educational Policy	Liability Insurance
	Marine Insurance
	Motor Insurance
	Personal Accident
	Theft Insurance
	Workmen's Compensation & Employer's Liability Insurance
	Miscellaneous Insurance

COMPENSATION - CONDITIONS

- Comply to conditions imposed by the Fund.
- 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 CLAIMING

- Claims shall be submitted to the Managing Trustee of the Fund,
- in the prescribed form
- with all relevant support documentation
- Claimants must make 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

- If the liability of an insolvent insurer to the policyholders is duplicated by the liability of any other insurer that is not insolvent, compensation will not be paid.

COMPENSATION - CHALLENGES

Fund has not paid compensation to date.

- Lengthy judicial process
- Extensions of Statutory Management
- Legal loop-holes
- Low contributions
- Subjective compensation
- Exposure of policyholders

RECENT DEVELOPMENTS

- Amendments in section 179 of the Insurance Act (Finance Bill 2010)

In the case of non payment of contributions, transfer of liability shifted from Policyholders to Directors of insurance companies.

RECENT DEVELOPMENTS

- Actuarial Study commissioned
 - a) Determine contribution rates
 - b) Determine compensation amounts

- Public Education Campaign
 - i) Sensitize the stakeholders and the public on the mandate of the Fund.
 - ii) Promote Confidence in the Insurance Sector.

WAY FORWARD

- **Judicial & Legal Reforms**
- **Review of the Insurance Act**
- **Scientific determination of compensation**
- **Expand the mandate of the Fund**

CONCLUSION

Your Claims, Assured!

ASANTENI

QUESTIONS

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