



The Insurance Regulations 2015

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24th June 2014

Stakeholder's Workshop

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7/8/2015

Introduction

Introduction

- Regulation are made pursuant to Draft Insurance Bill, 2015
- There are a total of 14 Draft regulations made as a stand alone regulations
- To allow for flexibility and future Development of a specific regulations.
- Where there an issue could not be covered comprehensively as a stand alone regulation it is covered under the General regulations
- Covers a wide range of issues-
 - ✓ Definition of the key terms in the Act
 - ✓ Distribution of surplus
 - ✓ Reinsurance arrangements
 - ✓ Power of the appointed actuary
 - ✓ Principle of good corporate governance
 - ✓ Financial condition report
 - ✓ Business outsourcing
 - ✓ Business plan
 - ✓ Conduct of business

Part A

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- **General/Principal Insurance Regulations**
- **Insurance (Long Term Insurance) Capital requirements Regulations 2015**
- **Insurance (General insurance Business) Capital requirements regulations, 2015**

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General/Principal Insurance Regulations

Definitions

- The regulation has close to 20 words precisely defined, We choose to highlight a few of the words as hereunder;

1. **Approved Securities** means

- i. Government securities issued by the National government of Kenya;
- ii. Government securities issued by the County Governments guaranteed fully by the National Government of Kenya
- iii. Government securities issued by other sovereign governments approved by the authority up to a limit of 30%
- iv. Shares of a state corporation established by law and guaranteed fully by the National Government

2. Business outsourcing is defined as a licensee's use of a third party to perform activities on a continued basis that would normally be undertaken by the licensee.

3. Capital resources means the difference between assets and liabilities on the basis of their recognition and valuation for solvency purposes .

Def cont...

4. Category of Insurance service providers include;

- a) Risk managers
- b) Loss Adjusters
- c) Motor Assessors
- d) Insurance investigators
- e) Surveyors
- f) Claim settling Agents

5. Classes of General insurance business includes;

Code	Classes
-------------	----------------

- | | |
|----|--|
| 01 | Aviation Insurance |
| 02 | Engineering insurance |
| 03 | Fire Insurance- Domestic risks |
| 04 | Fire Insurance - Industrial and commercial risks |
| 05 | Liability insurance |

Defn cont...

Code Classes

06 Marine Insurance

07 Motor Insurance-Private vehicles

08 Motor Insurance- Commercial Vehicles

09 Motor Insurance- Commercial vehicles public service vehicle

10. Personal accident insurance

11. Theft Insurance including Burglary

12. Work Injury Benefit and Employers Liability Insurance

13. Medical Insurance

14. Miscellaneous Insurance

Classes of **Long term insurance** Business

Code Class

01 Life Assurance

02 Annuity

Defn cont...

Code Classes

03 Personal Pensions

04 Unit –linked and linked investment

05 Non linked Investments

06 Group life

07 Group Credit

08 Permanent health

09 Deposit Administration

6. Financial condition Report means a report on solvency condition of an insurance that takes into account both the current financial status as per the balance sheet and its ability to survive future risks

7. Pool it is an arrangement by a group of insurers or reinsurers through which particular types of risks are underwritten with premium losses and expenses shared in proportions

8. Syndicate means a group of companies or underwriters who join together to insure high valued property or high hazard liability exposures

cont...

- Solvency requirements are met if the capital is sufficient as per the Act. Application for license is as in First Schedule.
- No insurer is allowed to grant any loan against the security of its own shares. Save for where it is being done on compassionate grounds to an employee. The same should not exceed two month gross salary of the employee.
- A life insurer shall not except with the approval of the Authority given generally or in particular case, and on such conditions as the authority may determine
 - a. Mortgage, charge, or otherwise encumber assets of a life fund
 - b. Directly or indirectly borrow against any assets of the life fund
 - c. By means of any surety, give any security in relation to obligations between other persons except where it is under a guarantee policy which the insurer is authorised to issue
- Intangibles, office equipment, loans to parties, unrealizable assets do not form part of the assets of a life fund.
- Reinsurers and insurers shall deposit and keep deposited with the central Bank in the government securities estimated at the market value of the securities on the day of deposit
- The deposit shall be 10 Million shillings or 5% of the total balance sheet assets whichever is higher.

cont...

- To enter into facultative or fronting arrangements, the insurer must obtain permission from the Authority.
- Insurers and reinsurers must have a written Retrocession Management strategy approved by their board and submitted to the regulator, and a review of the strategy shall be done after every two years and whenever there is any material changes in the companies circumstances prompting revision of the strategy
- The retrocession arrangement shall be submitted to the Authority on annual basis.
- The reinsurance arrangements shall continue to be guided by the following objectives To:
 - a. Maximise retention within the country
 - b. Develop adequate capacity
 - c. Secure the best possible protection for the reinsurance costs incurred
 - d. Simplify the administration of business

cont...

- The insurer shall set limits of net risk to be retained both by line of business and for the whole Company.
- The reinsurance arrangements shall continue to be guided by the following objectives To:
 - a. Maximise retention within the country
 - b. Develop adequate capacity
 - c. Secure the best possible protection for the reinsurance costs incurred
 - d. Simplify the administration of business
- Every insurer shall maintain the maximum possible retention commensurate with its financial strength and volume of Business
- The authority may exempt an insurer who is licensed to only underwrite micro insurance business from the requirements of an appointed actuary;
- In approving the exemption the insurer will be required to have a micro insurance Actuary;
- A micro insurance actuary shall have at least five years experience in insurance or actuarial profession

Cont..

- A group of insurers may establish insurance pools to mitigate common risks and enhance capacity
- Where such a pool is established the pool shall comply with the Insurance Act, regulations and guidelines
- A licensee seeking to outsource activities shall put in place a comprehensive policy to guide the assessment of whether and how those activities can be outsourced appropriately
- The senior management of the licensee retains ultimate responsibility for the outsourcing policy.
- Financial penalties

Long term insurance Capital requirements

Long term capital requirement

- Insurer for the purpose of determining the value of liabilities – adopt the statutory valuation method as prescribed in regulation on valuation
- Insurer to modify best assumption margins as follows;

Risk	Prescribed margin as % of the base assumption
Mortality	10% (increase for assurance, decrease for annuities)
Morbidity	10%
Health events	15%
Lapses	25% (i.e. if the best-estimate assumption is x%, the margin is 0.25x %)
Interest rate	10%
Termination of disability income benefits in payment	10% of claims reserves
Surrenders	10% (increase or decrease in surrender rate depending on which alternative gives rise to an increase in the liability of the policy concerned)
Expenses	10%
Expense inflation	10% (of the estimated escalation rate)
Charges under linked long term Contracts	A reduction of 0.25 percentage points

Long term Capital

- Assets to be valued at fair value
- Minimum capital requirement to be harmonised with Finance Bill as follows; The higher of
 - ✓ four hundred million shillings; or
 - ✓ risk based capital determined by the Authority from time to time; or
 - ✓ 5% of the liabilities of the life business for the financial year.
- Risk based capital refers to sum of Capital required for :
 - ✓ balance sheet assets
 - ✓ Policy liability
 - ✓ Catastrophe risks
- Solvency Margin – at all times be 100% of minimum capital requirement plus 150% of Minimum capital as capital requirement ratio.
- Insurer to inform Authority if anticipate its capital requirement ratio to fall below targeted level

Long term Capital -Capital factors for balance sheet Assets

Assets	Capital Charge (%)
Property	
Land & Buildings	50
Investment Property	70
Computer Equipment	
Current year	25
One year preceding the current year	50
Two years preceding the current year	75
Motor Vehicles	75
Investment in related companies	50
Government securities	0
Other securities	20
Unit linked Assets	10
Equity Securities	
Ordinary shares –Quoted	15
Ordinary shares –Unquoted	20
Preference Share – Quoted	10
Preference Share – Unquoted	20
Debt Securities	
Corporate Bonds – Secured	10
Commercial paper- Secured	10
Commercial paper – Unquoted	20
Debentures - Listed Entities	10
Debentures - Unlisted Entities	20
Loans	
Loans to employees – Secured loans	50
Loans to employees-unsecured	100
Loans to unrelated parties – Secured loans	10
Mortgages	30
Term deposits	0
Cash & cash equivalents	0

General insurance Capital requirements

General insurance capital requirement

- Minimum capital to be Finance Bill 2015 as follows; The higher of
 - ✓ six hundred million shillings;
 - ✓ risk based capital determined from time to time; or
 - ✓ 20% of the net earned premiums of the proceeding financial year;
- Solvency margin Solvency Margin – at all times be 100% of minimum capital requirement plus 150% of Minimum capital as capital requirement ratio.
- Insurer to inform Authority if anticipate its capital requirement ratio to fall below targeted level
- Valuation of Assets- valued at fair value
- Capital available to an insurer consist of –
 - ✓ Shares issued and paid up
 - ✓ Share premium
 - ✓ Retained earnings and reserve.
 - ✓ With prior approval of the Authority may include subordinated loans
- When calculating minimum capital record an additional provision of 5% of preceding year's Net written Premium.

General insurance risk based Capital

- Risk based capital refers to sum of Capital required for :
 - ✓ balance sheet assets
 - ✓ Policy liability
 - ✓ Credit (reinsurance)
 - ✓ Catastrophe risks

Insurance (General Insurance Business)- Capital factors for balance sheet Assets

Assets	Capital Charge (%)
Land & Buildings	50
Investment Property	70
Computer Equipment	
Current year	25
One year preceding the current year	50
Two years preceding the current year	75
Motor Vehicles	75
Investment in related companies	50
Government securities	0
Other securities	20
Unit linked Assets	10
Ordinary shares –Quoted	15
Ordinary shares –Unquoted	20
Preference Share – Quoted	10
Preference Share – Unquoted	20
Corporate Bonds – Secured	10
Commercial paper- Secured	10
Commercial paper – Unquoted	20
Debentures - Listed Entities	10
Debentures - Unlisted Entities	20
Loans to employees – Secured loans	50
Loans to unrelated parties – Secured loans	10
Mortgages	30
Term deposits	0
Cash & cash balances	0
Receivables from reinsurers – outstanding less than 6	0

Insurance (General Insurance Business)- Capital factors for policy liability

Class of Business	Outstanding Claims Risk Factor (%)	Unearned premium Risk Factor (%)
Aviation	13	17
Engineering	10	14
Fire Domestic	5	9
Fire Industrial	12	16
Liability	10	14
Marine	5	9
Motor Private		
Material Damage	5	9
Liability	15	19
Motor Commercial		
Liability	5	9
Material Damage	12	16
Motor Commercial		
Liability	10	14
Material Damage	15	19
Personal Accident	11	15
Theft	6	10
Workman's Compensation	6	10
Medical	11	15
Miscellaneous	9	13

General Insurance Capital – capital charges

	Ratings		
	1	2	3
Standard & Poor's	Above A	BBB	Below BBB
Moody's	Above A	Baa	Below Baa
AM Best	Above B+	B, B-	Below B-
Fitch Corporation	Above A	BBB	Below BBB
GCR	Above A-	BBB+	Below BBB+
Ceding Ratio	Charge on Premium		
For First 50%	0%	15%	100%
Above 50%	10%	25%	100%

Part B

- **Financial statements, returns and Auditors Regulations 2015**
- **Requirements on (change in controls, management and key control functions)**
- **Valuation of Assets and liabilities regulations**

Requirement for HIM, Brokers & Corporate

Requirements for HIM, Brokers & Corporate Agents



- HIM and Brokers – Minimum Capital – 10 Million
- Corporate Agents – Minimum Capital – 5 Million
- Minimum Capital resources –equal or exceeding 5% of the premium underwritten for the previous year.
- HIM & Brokers to prepare records of compliance with governance framework in section 76 (clear responsibility, separation of oversight function from management function)
- Him, brokers to put in place risk management strategy
- Money laundry reporting to be a key control function.
- Insurance monies not to be held by HIM & Brokers for more than two working days
- Professional indemnity cover – 10 million
- Corporate agent to operate with more than one agent so long as it has the capacity to do so.
- Commission structure specified in the regulations

Financial Statements Returns and Auditors regulation

Financial Statements, returns and Auditors regulation



- Insurer to keep separate accounts for each class of business.
- Insurers, HIM, Brokers & Corporate Agents to prepare statement of comprehensive income, statement of financial position, cash flow statement and revenue account.
- F/S to be prepared in accordance with IFRS
- In preparing F/S every reserve to be calculated in accordance with the method prescribed for reserving
- Submission of audited accounts- 3 months after the end of the F/Y
- Statutory returns also be submitted annually -3 months after end of F/Y
- Quarterly returns -30 days after end of the quarter
- Monthly returns – 15 days after the end of the month (Summary of claims)
- Regulations further provides for-
- ✓ Qualification & disqualification of Auditors
- ✓ Power of the Authority to appoint an auditor and remove auditor from office

Requirements (change in control, management and Key control function

Requirement (change in control, management and key control function)



- Key control function defined to include;
 - ✓ Chief executive function; actuarial function
 - ✓ Risk management function; internal audit function
 - ✓ Compliance function money laundering reporting function
- Individual agents exclude from application
- One is considered to have failed fit and proper test;
 - ✓ Bared from practicing by Authority, any other regulatory body, operator of a market, professional body or government agency
 - ✓ Has a judgment that associate with finding of fraud, representation, financial management
- Policies, control and procedures to be kept by licensed insurer;
 - ✓ Risk management
 - ✓ Internal controls;
 - ✓ Actuarial function
 - ✓ Risk, legal and regulatory obligation
 - ✓ Procedures for members of the board and employees need to follow
 - ✓ Implementation process for insurers strategies and employees
 - ✓ Control to ensure that such process, procedures and controls are in place

Approval of outsourcing of Key control function



- The Authority may approve application for outsourcing if;
 - ✓ Does not materially increase risk;
 - ✓ Board of insurer has approved the outsourcing;
 - ✓ Board satisfied with expertise and experience of the provider;
 - ✓ Licensee has appropriate policy for outsourcing
 - ✓ Governed by written contract
- Insurer to put in place a risk management strategy – defines risk appetite – requires board approval for deviation from strategy
- Money laundering reporting is added as a key control function.

Valuation of assets and liabilities

Valuation of Assets and Liabilities



- Assets to be taken at fair value for determining minimal capital requirement.
- Valuation of policy liabilities for general insurers- use
 - ✓ 24th method (reserving on monthly basis)
 - ✓ 365th method (reserving on a daily basis)
 - ✓ Insurer to disclose value for its unearned premium reserve;
 - ✓ A test of a adequacy of reserves to be conducted by the actuary
- Reinsurers may apply the 8th method when reserving on a quarterly basis.
- Reserve on unexpired risk to be maintained separately on each class of insurance business.
- Reserve in respect to outstanding claims incurred and reported be determined prudently by using case estimate method, Average cost per claim method or other method recognized by Authority;
- Reserves of incurred but nor reported be valued prudently using at least two of the following methods;
 - ✓ Chain-Ladder Method;
 - ✓ Average Cost per claim method
 - ✓ Born Huetter- Ferguson method; or
 - ✓ Standard Development method

Valuation of Assets and Liabilities



- Actuary to be in charge of reserving
- Insurer to submit to the Authority reserves valuation report signed by appointed Actuary
- Valuation parameters for both General and Long-term business defined.
- Valuation consideration for Long Term Insurers;
 - ✓ Premiums to be received in future
 - ✓ Options regarding future investment returns, bonus declarations, expenses, mortality experience, morbidity, experience, lapses, surrenders etc
 - ✓ Minimum level of financial resilience
 - ✓ Full value of non-vested bonuses already accumulate, or be paid on death
- Report to disclose the valuation method
- Actuarial investigation may be conducted if ordered by the Authority.

Part C



- **Transfers mergers and amalgamation**
- **Electronic filing of documents regulations**
- **Group wide supervision regulations**
- **Regulation on prevention of insurance fraud 2015**
- **Insurance (Policyholders Protection Fund) Regulations 2015**
- **Regulations on enforcement and remedial actions 2015**

Transfers, Mergers and Amalgamations Regulations

Transfers, mergers, and Amalgamation



- The provisions are similar to the ones in the current Act
- Sets out the procedure for transfers
- Application be accompanied by;
 - ✓ Draft documents –terms of agreement under which proposed transfer is to carried out –transfer of portfolio of Assets or liabilities
 - ✓ Audited F/S
 - ✓ Actuarial reports (longterm)
 - ✓ Any document as required by the Authority
- Notice of intention to transfer and Authority Decision to be published in the Gazette and two newspapers of wide circulation.
- In approving the application the Authority must satisfy itself that the interest of the policy holders including the policies affected are taken care of.
- Within 4 months of the publication of the notice of approval by the Authority, the transferee shall lodge with the Authority;
 - ✓ Audited balance sheet
 - ✓ Audit to provide disclosure on the status of transfer of Assets
 - ✓ Declaration that every payment to made has been specified

Electronic Filing of Documents

Electronic filling of Documents

- Purpose of regulations is for electronic lodging of documents
- Legal recognitions of the electronic forms used under RBS
- Authorizes Authority to prescribe electronic forms
- Authority is allowed to vary the forms where strict compliance is not tenable.
- Forms to be completed and lodged in accordance with the direction specified in the form or by Authority
- Authority may reject any form that is not in compliance with the regulations
- Time of lodging document.
 - ✓ deemed to have been received by the Authority's system once a submission notification is received by licensee
 - ✓ Document received after midnight will be deemed received the next working days
- Filling to done with an appropriate e-form
- No embedded data shall be allowed in electrically filled documents

Group Wide Supervision

Group wide supervision

- Insurance group defined to include any entity where an insurer is a member.
- Insurance group is under obligation to provide information and comply with directive that shall be required by the Authority
- Insurance group to establish a comprehensive and consistent governance framework across the group
- The governance framework to balance the divergent interest of the group and should address;
 - ✓ Alignment of the structure of the group
 - ✓ financial soundness and significant owners
 - ✓ Suitability of board members, senior management, and key persons
 - ✓ Fiduciary responsibility of the board;
 - ✓ Management of conflict of interest
 - ✓ Internal controls and risk management
 - ✓ Code of ethics
-

Group wide supervision

- Insurance group to report to the Authority of its governance framework
- Insurance group to establish a group risk tolerance and appetite, group operational objectives and strategies
- The ultimate responsibility for the sound and prudent management rest with the parent Board
- An insurance Group shall have capital management policies which should be prudent robust that takes into account additional risks from unregulated entities;
- Capital of an insurer within the group shall not be applied in any manner other than development of insurance entity.
- Insurance group to have a comprehensive, independent and effective risk management framework which takes into account;
 - ✓ Nature, scale and complexity of its business;
 - ✓ diversity of its operation;
 - ✓ Volume, frequency and size of transaction
 - ✓ Degree of risk associated with each area of operation.

Regulation on prevention of Insurance fraud

Prevention of insurance fraud

- Every licensee to have in place a sound fraud management strategy approved by its Board to manage fraud risk and financial crimes.
- Strategy to be reviewed every two years.
- The strategy should clearly be documented and communicated to staff.
- The licensees structure should provide a suitable environment for execution and supervision of financial crime and fraud management strategy.
- The Board and senior management shall be responsible for the strategy
- Licensee to have in place documented internal procedure on reporting of fraudulent and suspicious activities within the organizations- whistle blowers protection.
- To maintain records of all reported cases.



Insurance (policyholders Protection Fund) Regulations 2015

Draft Regulations – High lights

- Provision leading to the conduct of the Board
- Circumstances of payment of the claims:
 - ✓ the Authority has declared the insurer insolvent and the insurer is not entitled to transact business;
 - ✓ the Authority has cancelled the insurer's license;
 - ✓ winding up proceedings have been commenced against the insurer;
 - ✓ the administrator has recommended the winding up of an insurer and the Authority has acted on the recommendation; or
 - ✓ the operation of the affairs of an insurer has been suspended by a court order

Regulations cont.....

▪ **Protection levy**

- Insurer to pay a levy of 0.5% of gross premium collected every month
- To be submitted with 30 days from the end of the month to which it relates
- Failure of compliance attract 2.5% as penalty
- Fund has power to recover the levy through a legal proceedings
- Insurers to submit to the fund a monthly levy returns showing the amount payable

Draft Regulations

- Power to determine compensation lies with the board in consultation with the Authority;
- One will not be eligible for compensation if policy is from unlicensed insurer;
- Where compensation has been made by the Fund, the Fund shall have the right of subrogation to the extent of the amount compensated and shall have preferential rights against the liquidator in case of winding up;



Regulation on Enforcement and Remedial Action

Regulations on enforcement and remedial actions 2014

The regulations are made under part VIII section 120(7) as read together with section 171 of the Insurance Bill, 2015.

- Notification of the person to be investigated;
 - ⇒ *However the notice shall issue only if not likely to frustrate the investigations.*
- A person under investigation shall be required to comply with the requirements of the investigator, not to mislead the investigator and/or hinder the investigations;
- The investigator is under a duty of confidentiality and diligence. He is required to furnish the Authority with a report of the findings. The investigator will not be liable to acts and omissions done in good faith; and
- The expenses of the investigator shall be defrayed by the licensee under investigation.

Questions

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Thank you

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7/8/2015