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THE ENGINEERS ACT

(No. 43 of 2011)

REGISTERED ENGINEERS

IN PURSUANCE to section 30 (1) of the Engineers Act, 2011, the Registrar of the Engineers Board of Kenya notifies that the following have been registered under the Act and are entitled under section 26 (1) to adopt and use style and title “Professional Engineer” or such contraction thereof as the Engineers Board of Kenya may approve and to offer his/her services to the public for gain or reward or by way of trade in the Engineering discipline in which he/she is registered. Under section 26 (2) Professional Engineers or Consulting Engineers may have the sole discretion of using the title “Engineer” before their names.

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E382	Eng. Wambugu, Paul Gateere	P.O. Box 52607–00200 Nairobi	P.Cons.Eng.,Bsc., MICE.,MECSA.,MIEK
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A2441	Eng. Wasinda, Auma Stephen	P.O. Box 13366 – 00100 Nairobi	P. Eng., BSc, MIEK
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A3354	Eng. Were, Dickson Omondi	P.O. Box 20023–00200 Nairobi	P. Eng., Bsc., MIEK
A3823	Eng. Wilfred, Kipkirui Langat	P.O. Box 49712–00100 Nairobi	P. Eng., Bsc., MIEK
A2930	Eng. Yego, Shadrack Kiprutto	P.O. Box 24103–00100 Nairobi	P. Eng., BSc, MIEK
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<i>Country</i>	<i>Name</i>	<i>Postal Address</i>	<i>Affixes</i>
China	Eng. Dongzheng Li	P.O. Box 104507–00101 Nairobi	P.Temp.Eng.
China	Eng. Fei Zhang	P.O. Box 104507–00101 Nairobi	P.Temp.Eng.
Uganda	Eng. Odongo, Mark Ajal	P.O. Box 103765–00101 Nairobi	P.Temp.Eng.
America	Eng. Robert Fredrick Weaver	P.O. Box 7121 Grape Road, Granger, In 46530	P.Temp.Eng.
ECF44	Ama Consulting Engineers Limited	P.O. Box 66266–00800 Nairobi	Civil
ECF116	Anthonyisaacs Engineers Limited	P.O. Box 17520–20100 Nakuru	Civil
ECF58	Africon Universal Consulting Ltd	P.O. Box 3181–00506 Nairobi	Civil
ECF119	Amplus Consulting Engineers Ltd	P.O. Box 42450–00100 Nairobi	Civil
ECF41	Amsowconsult Limited	P.O. Box 63090–00200 Nairobi	Electrical & Mechanical
ECF61	Apec Consortium Limited	P.O. Box 3786–00100 Nairobi	Civil
ECF76	Apex Systems Consulting Group	P.O. Box 38900–00100 Nairobi	Civil

Reg. No.	Name	Postal Address	Affixes
	Limited		
ECF45	Associated Services Consultants	P.O Box 55284-00200 Nairobi	Mechanical & Electrical
ECF141	Avatech Consult Limited	P.O. Box 2393-00200 Nairobi	Civil
ECF11	Batch Associates Ltd	P.O Box 24103-00100 Nairobi	Civil
ECF4	Batiment Project Consulting Ltd	P.O. Box 23751-00100 Nairobi	Civil
ECF89	Bosko Engineering Consultants Ltd	P.O Box 25371-00100 Nairobi	Civil
ECF113	Building Services Group Limited	P.O Box 24529-00100 Nairobi	Mechanical
ECF125	Butichi & Associates Engineering Consultants Limited	P.O Box 104815-00101 Nairobi	Civil
ECF65	C M Kamau & Associates Ltd	P.O Box 74694-00200 Nairobi	Civil
ECF127	Cape Consult Limited	P.O Box 10128-00100 Nairobi	Civil
ECF88	Cas Consultants Limited	P.O Box 67693-00200 Nairobi	Civil
ECF103	Cgp Consulting Engineers Ltd	P.O Box 58911-00200 Nairobi	Civil
ECF104	Choice Consultants	P.O Box 8484-00200 Nairobi	Electrical
ECF129	Civil One Consulting Engineers Ltd	P.O Box 103409-00101 Nairobi	Civil
ECF60	Civotech Associates Limited	P.O Box 26603-00100 Nairobi	Civil
ECF20	Cobeam Designs	P.O Box 6437-00200 Nairobi	Civil
ECF115	Connex Engineering Limited	P.O Box 21396-00505 Ngong Road	Civil
ECF138	Design Masterplan Limited	P.O. Box 58438-00200 Nairobi	Civil
ECF74	Donn Consultants	P.O Box 10457-00100 Nairobi	Electrical
ECF71	East African Engineering Consultants Limited	P.O Box 30707-00100 Nairobi	Civil
ECF57	Ecosite Development Consultants Ltd	P.O Box 56075-00200 Nairobi	Civil
ECF83	Edcons (K) Ltd	P.O Box 19721-00100 Nairobi	Civil
ECF117	Edvik Consulting Kenya Limited	P.O. Box 1245-00606 Sarit Centre	Civil
ECF68	Engiconsult Consulting Engineers	P.O Box 42256-00100 Nairobi	Civil
ECF139	Engineering Ideals Kenya Limited	P.O. Box 51288-00200 Nairobi	Civil
ECF87	Engplan Consulting Engineers Limited	P.O. Box 17845-00100 Nairobi	Civil
ECF2	Engscope Consulting Engineers Ltd	P.O Box 59421-00200 Nairobi	Civil
ECF86	Feradon Associates Ltd	P.O Box 7375-00300 Nairobi	Electrical
ECF91	Finix Consulting Ltd	P.O Box 1088-00517 Nairobi	Civil
ECF120	Framari Exclusive Agencies Limited	P.O. Box 12703-00100 Nairobi	Civil
ECF108	Frame Consultants Ltd	P.O Box 58624-00200 Nairobi	Civil
ECF7	Frinconsult Ltd.	P.O Box 235 - 01000 Thika	Civil
ECF22	G A Consultants Limited	P.O Box 2670-00100 Nairobi	Civil
ECF93	Gath Consulting Engineers Ltd	P.O Box 14279-00800 Nairobi	Civil
ECF50	Gathara & Partners Consulting Engineers	P.O Box 53980-00200 Nairobi	Civil
ECF110	Gedox Associates Ltd	P.O Box 64441-00620 Nairobi	Electrical
ECF73	Geotest Engineers Limited	P.O. Box 154-00502 Nairobi	Civil
ECF114	Graeme Watson Associates	P.O Box 66507-00800 Nairobi	Civil
ECF140	Howard Humphreys East Africa Limited	P.O Box 30156-00100 Nairobi	Civil & Mechanical
ECF42	Ilovi Consulting Engineers Ltd	P.O Box 79625-00200 Nairobi	Civil
ECF112	Interconsult Engineers Ltd	P.O Box 55176-00200 Nairobi	Civil
ECF69	Interphase Consultants Limited	P.O Box 21974-00505 Nairobi	Civil
ECF14	Inticom Limited Consulting Engineers	P.O Box 14105-00100 Nairobi	Civil
ECF34	Itec Engineering Limited	P.O Box 63532-00619 Nairobi	Civil
ECF64	Kinconsult Associates Limited Consulting Engineers	P.O Box 10529-00100 Nairobi	Civil
ECF33	Kiri Consult Limited	P.O Box 4125-00506 Nairobi	Civil
ECF95	Kurrent Technologies Limited	P.O Box 16989-00620 Nairobi	Mechanical
ECF94	La Femme Engineering Services Ltd	P.O Box 64723-00620 Nairobi	Civil
ECF97	Loadline Engineering Services	P.O Box 52440-00200 Nairobi	Electrical
ECF128	Log Associates Limited	P.O. Box 10677-00100 Nairobi	Agricultural
ECF124	Lotus & Partners Consulting Engineers Limited	P.O. Box 40887-00100 Nairobi	Electrical
ECF62	M & E Consulting Engineers	P.O Box 50744-00100 Nairobi	Mechanical & Electrical
ECF82	Mankan Consulting Engineers Ltd	P.O Box 57866-00200 Nairobi	Civil
ECF121	Mascal Ltd	P.O. Box 27309-00100 Nairobi	Civil
ECF111	Max & Partners Limited	P.O. Box 1349-00606 Nairobi	Civil
ECF12	Maxcad Consulting Engineers Ltd	P.O Box 40482-80100 Mombasa	Civil
ECF144	Mebs & Industrials Limited	P.O. Box 99784-80107 Mombasa	Electrical
ECF107	Mecoy Consultants Ltd	P.O. Box 20198-00200 Nairobi	Electrical
ECF143	Metrix Integrated Consultancy	P.O. Box 26524- 00504 Nairobi	Civil
ECF75	Metrocom Consultants Limited	P.O. Box 27090-00100 Nairobi	Electrical
ECF39	Moti Consultants Limited	P.O Box 27345-00100 Nairobi	Civil
ECF56	Multiscope Consulting Engineers Ltd	P.O Box 12012-00100 Nairobi	Civil
ECF137	Nemel Kenya Limited	P.O. Box 76230-00508 Nairobi	Electrical
ECF130	Ngasi Consulting Engineers	P.O Box 2680-00202 Nairobi	Civil
ECF131	Norken International Limited	P.O Box 9882-00100 Nairobi	Civil
ECF96	Norkun Intakes Limited	P.O Box 605-00100 Nairobi	Electrical
ECF46	Ochieng' Abuodha And Associates Limited	P.O Box 4854-00506 Nairobi	Civil

Reg. No.	Name	Postal Address	Affixes
ECF66	Pleng Engineering Limited	P.O Box 24866–00100 Nairobi	Civil
ECF102	Prisma Technics Limited	P.O Box 49197–00100 Nairobi	Electrical
ECF1	Procon Consulting Engineers Ltd.	P.O Box 5201–00506 Nairobi	Civil
ECF35	Professional Consultants Limited	P.O Box 45792–00100 Nairobi	Civil
ECF92	Re–Engineering Consulting Engineers Limited	P.O. Box 105495–00101 Nairobi	Civil
ECF37	Remax Consult Limited	P.O Box 3550–00506 Nairobi	Electrical
ECF109	Rhines Engineering Services Limited	P.O Box 9947–00200 Nairobi	Civil
ECF70	Royal Associated Consulting Engineers Limited	P.O. Box 37705–00100 Nairobi	Civil
ECF48	Runji Consulting Group Ltd	P.O Box 68053 Nairobi	Civil
ECF38	Samu Engineering Consultants Limited	P.O. Box 20310–00200 Nairobi	Civil
ECF81	Servcon Associates Limited	P.O Box 5602–00100 Nairobi	Electrical
ECF54	Smoothconsult Consulting Engineers Limited	P.O Box 4095–20100 Nakuru	Civil
ECF106	Sobocon Associates Limited	P.O Box 34558–00100 Nairobi	Civil
ECF122	Span Consulting Engineers Llp	P.O. Box 75093–00200 Nairobi	Civil
ECF30	Stroutel Africa Limited	P.O Box 76664–00508	Civil
ECF123	Syldon & Partners Consulting Engineers Limited	P.O. Box 664–00606 Nairobi	Electrical
ECF133	Synchroconsult Associates Ltd	P.O Box 79626–00200 Nairobi	Electrical
ECF5	Terms Kenya Limited	P.O Box 29204–00100 Nairobi	Civil
ECF51	Terraconsult Kenya Ltd	P.O Box 35305–00100 Nairobi	Civil
ECF47	Tertiary Consulting Engineers Limited	P.O Box 46439–00100 Nairobi	Civil
ECF135	Timcon Transport Consulting Ltd	P.O Box 62389–00200 Nairobi	Civil
ECF36	Tripple Systems Consultants Limited	P.O. Box 64353–00620 Nairobi	Civil
ECF21	Uniconsult Engineering Consultants Ltd	P.O. Box 59763–00200 Nairobi	Civil
ECF132	Varsani Associates Limited	P.O Box 325–00606 Nairobi	Mechanical
ECF63	Vejtech Consult Limited	P.O Box 15702–00509 Nairobi	Civil
ECF100	Vemart Engineering Consultants Ltd	P.O Box 9333–00200 Nairobi	Civil
ECF136	Vex Engineers Ltd	P.O. Box 15044–00100 Nairobi	Civil
ECF67	Wanjohi Mutonyi Consult Limited	P.O Box 21714–00505 Nairobi	Civil
ECF53	Westconsult	P.O Box 50222–00200 Nairobi	Mechanical & Electrical
ECF10	Witts Engineering Consulting Ltd.	P.O Box 70584–00400 Nairobi	Civil
ECF27	Xenocon Consulting Engineers	P.O Box 59385–00200 Nairobi	Civil
ECF105	Zamconsult Consulting Engineers Ltd	P.O Box 68221–00200 Nairobi	Civil

Dated the 28th March, 2022.

ENG. MARGARET N. OGAI,
Registrar/CEO, Engineers Board of Kenya.

GAZETTE NOTICE NO. 3637

THE INSURANCE ACT

(Cap. 487)

THE INSURANCE (REINSURANCE ARRANGEMENTS) GUIDELINES, 2022

STATEMENT OF INTENT

THE Insurance (Reinsurance Arrangements) Guidelines are made by the Insurance Regulatory Authority pursuant to section 3A (1) (g) of the Insurance Act and are intended to provide standards for the use of reinsurance and other forms of risk transfer, standards to be applied to manage the selection, implementation, monitoring, review, control and documentation of reinsurance arrangements and controls and reporting standards for risk transfer programmes.

Citation

1. These Guidelines may be cited as the Insurance (Reinsurance Arrangements) Guidelines, 2022.

Interpretation

2. In these Guidelines, unless the context otherwise requires—

“appointed actuary” means an external and independent actuary with qualifications as indicated in section 2 of the Act;

“aggregate exposure” means the amount of reinsurance coverage provided by a single reinsurer to a cedant during a specified period for all reinsurance losses likely to be sustained during that period;

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

“cession” means the amount of insurance risk transferred to a reinsurer by a ceding company may be the whole or a portion of a single risk;

“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;

“mismatch risk” refers to where the terms and conditions of a reinsurance contract differs from that of the policy issued by a cedant for the class of business reinsured leading to a gap in reinsurance protection;

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

“treaty reinsurance” means a reinsurance contract under which the cedant agrees to cede and the reinsurer accepts a portfolio of risks of a particular class or classes of business.

Application

3. These Guidelines shall apply to all insurers.

Purpose of the Guidelines

4. The purpose of these Guidelines is to set—

(a) standards for the use of reinsurance and other forms of risk transfer;

(b) standards to be applied to manage the selection, implementation, monitoring, review, control and documentation of reinsurance arrangements; and

(c) controls and reporting standards for risk transfer programmes.

General Principles

5. Reinsurance arrangements shall take the following issues into account—

- (a) the financial strength and claims payment ability of the reinsurers in question;
- (b) the risk and capital management strategy of the cedant;
- (c) the appropriateness of the reinsurance strategy given the underlying insurance portfolios;
- (d) the structure of the reinsurance programme;
- (e) the extent to which relevant functions are outsourced;
- (f) the levels of aggregate exposure to a single reinsurer or different reinsurers being part of the same group;
- (g) the proportion of business ceded so that the net risks retained are commensurate with the insurer's financial resources;
- (h) the resilience of the reinsurance programme in stressed claims situations;
- (i) the extent of any credit risk mitigation in place;
- (j) processes for—
 - (i) timely and complete reporting and settlements;
 - (ii) approving, monitoring and confirming the placement of facultative reinsurance;
 - (iii) monitoring the performance and potential exhaustion of its reinsurance programme; and
 - (iv) ensuring that it has accurate and complete reinsurance documentation of contract terms and conditions;
- (k) the mismatch risk between the underlying policies and the reinsurance contracts;
- (l) controls of reinsurance arrangements suitable in the context of the nature, scale and complexity of the business and the extent of their reinsurance exposures.

Responsibility of the Board of Directors

6. (1) The roles and responsibilities of the board of directors with regard to an insurer's reinsurance arrangements shall be to —

- (a) oversee the development of a reinsurance management strategy and ensure it is implemented;
- (b) establish appropriate monitoring mechanisms to ensure that the strategy is being delivered and complied with;
- (c) review the reinsurance strategy at least biennially and whenever there have been material changes in the company's circumstances;
- (d) ensure regular reviews of the performance of the reinsurance programme, to ensure that it functions as intended and continues to meet its strategic objectives;
- (e) put in place an appropriate reinsurance function for the day-to-day management of the reinsurance programme;
- (f) set limits on the net risk to be retained per class of business and aggregate for the company;
- (g) determine the maximum foreseeable amount of reinsurance protection to be obtained from approved reinsurers; and
- (h) seek the advice of appointed actuary on the soundness of risk and capital management strategy before entering into, modifying or terminating a reinsurance arrangement.

(2) The head of the reinsurance function shall have a minimum qualification of certificate of proficiency in reinsurance practice from a recognised institution.

Responsibility of Management

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

- (a) implement the insurer's reinsurance management strategy;
- (b) develop and implement procedures with respect to reinsurance arrangements;
- (c) periodically analyse and assess the quality and performance of reinsurance arrangements and report to the Board on a regular basis and upon request;
- (d) set underwriting guidelines that specify the types of insurance to be underwritten, policy terms and conditions and aggregate exposure by class of business;
- (e) establish and document limits on the amount and type of insurance that will be covered by treaty reinsurance;
- (f) establish and document criteria for placing and accepting facultative cover; and
- (g) establish internal control mechanisms to ensure that reinsurance arrangements comply with the reinsurance management strategy and procedures and with legal and regulatory requirements.

Reinsurance Management Strategy

8. (1) Insurer's reinsurance management strategy shall be part of the risk and capital management strategy.

(2) 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.

(3) At a minimum, the reinsurance management strategy of an insurer shall—

- (a) identify the insurer's risk tolerance;
 - (b) identify the level of cessions appropriate for the insurer's risk tolerance;
 - (c) identify, and clearly articulate, any other reasons for seeking reinsurance cover, such as risk diversification, financing of new business or expertise transfer;
 - (d) determine the types of reinsurance arrangements that are appropriate to the insurer's risk tolerance;
 - (e) set out how liquidity will be managed where there is a timing mismatch between the payment of claims and the receipt of reinsurance recoveries;
 - (f) consider peak exposures and seasonality in the insurance portfolio;
 - (g) consider appetite for credit risk;
 - (h) consider the capital management strategy; and
 - (i) define and document the insurer's approach for reinsurance management framework, identifying the procedures for—
 - (i) the reinsurance cover(s) to be purchased;
 - (ii) the selection process of reinsurers; and
 - (iii) monitoring reinsurance programs, including reporting and internal control systems.
- (4) An insurer shall review and submit its reinsurance management strategy to the Authority every two years.

Reinsurance arrangements

9. (1) Insurers may enter into inward reinsurance arrangements, provided that—

- (a) any such arrangements are clearly identified and fully taken into account in the insurer's reinsurance strategy;
- (b) the insurer has provided for adequate reserving for any inward reinsurance business; and
- (c) the terms and conditions of the reinsurance cover must be compatible with those of the underlying insurance business in order to avoid mismatch risk.

(2) An insurer shall submit reinsurance arrangements for the following year to the Authority on or before the 30th September every year.

Quantum Reinsurance Cover

10. In calculating the quantum of reinsurance cover required, insurers shall apply the following methodology—

- (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;
- (b) in calculating the maximum loss, the Board shall include the impact of this catastrophic event on all classes of business underwritten by the insurer;
- (c) establish the maximum event retention; and
- (d) effect reinsurance cover between the maximum loss and the maximum event retention.

Written Procedures

11. An insurer shall have in place written procedures in respect of—

- (a) timely payments of reinsurance premiums to reinsurers; and
- (b) timely recovery of reinsurance claims.

Internal Controls

12. An insurer shall put in place adequate internal control systems to ensure that—

- (a) all underwriting is carried out in accordance with the company policy;
- (b) planned reinsurance cover is in place at all times;
- (c) claims are reported to the reinsurer in a timely manner and in accordance with the reinsurance agreement;
- (d) reinsurance claims payments are being promptly recovered; and
- (e) material deviations from items (a) to (d) above are identified and reported to Management and the Board of Directors.

Prohibited Practices

13. An insurer shall not enter into fronting arrangements unless prior approval is granted by the Authority in writing.

Fronting Arrangements

14. (1) In requesting for approval of fronting arrangements and overseas reinsurance placement, an insurer shall provide the following information in respect to the risk being fronted—

- (a) sum insured;
- (b) previous sum insured, where applicable;
- (c) premium rate charged;
- (d) previous premium rate charged, where applicable;
- (e) date of inception and expiry of cover;
- (f) proof of declination from the mandatory cession reinsurers;
- (g) description of the risk including the terms and conditions; and
- (h) reinsurers participating in the risk, their credit rating and their proportions.

(2) Each fronting arrangement shall be submitted to the Authority in writing and in addition to the deposits required under section 32 of the Act, the insurer shall maintain a further deposit equivalent to 10% of the premium payable.

Protection of Policy Holders

15. An insurer shall put in place measures intended to protect the policyholders including the use of cut-through provisions.

Appointed Actuary

16. An insurer shall ensure that the appointed actuary provides an assurance on the appropriateness and adequacy of the insurer's reinsurance strategy and arrangements.

Enforcement

17. Where the Authority determines non-compliance with the provisions of these Guidelines, it may take any intervention prescribed in the Act, including—

- (a) require an insurer to invest in a specified manner;
- (b) restrict or prohibit an insurer from investing in certain asset classes or individual assets to safeguard insurance funds;
- (c) disqualify or revoke the appointment of an individual in a position as board member, management or key person in a control function;
- (d) impose additional reporting requirements;
- (e) withdraw or impose conditions on the business license;
- (f) impose monetary penalties as provided for under the Act; and
- (g) take any other action as may be deemed necessary.

ABDIRAHIN ABDI,
Chairperson,
Insurance Regulatory Authority.

GEOFFREY KIPTUM,
Chief Executive Officer and
Commissioner of Insurance,
Insurance Regulatory
Authority.

GAZETTE NOTICE NO. 3638

THE INSURANCE ACT

(Cap. 487)

**THE INSURANCE (CLAIMS MANAGEMENT)
GUIDELINES, 2022****STATEMENT OF INTENT**

THE Insurance (Claims Management) Guidelines are made by the Insurance Regulatory Authority pursuant to section 3A(1)(g) of the Insurance Act and are intended to provide principles of management of insurance claims by an insurer as well as the market conduct relating to the claims process and to ensure prompt payment of claims and to promote consumer confidence in the insurance industry.

Citation

1. These Guidelines may be cited as the Insurance (Claims Management) Guidelines, 2022.

Interpretation

2. In these Guidelines, unless the context otherwise requires—

“claim” means a request by a claimant to an insurance company for compensation based on the terms of the insurance policy and includes claims related expenses;

“claimant” means a person who has a right to a settlement arising from a contract of insurance;

“insurer” means a person, registered under the Act, who carries on insurance business; and

“service provider” refers to Risk Managers, Motor Assessors, Insurance Investigators, Loss Adjustors, Insurance Surveyors and Claim Settling Agents registered under the Act.

Application

3. These Guidelines shall apply to all insurers, intermediaries and the service providers.

Purpose

4. The purpose of these Guidelines is—

- (a) to ensure prompt payment of claims; and
- (b) to promote consumer confidence in the insurance industry.

General Requirements

5. The board of an insurer shall develop, document and implement policies and procedures for effective claims management.

Pre-Loss Information

6. (1) An insurer shall, at the time of issuing an insurance policy, provide in writing the procedures to be followed by a claimant when lodging a claim.

(2) An insurer shall not ask for information that ought to have been provided at the time of policy issuance.

(3) An insurer shall explain to the policyholder the claim conditions such as depreciation, average, pre-loss value, reinstatement, excess or deductibles among others.

(4) An insurer shall ensure that the claims procedure provided to the claimant contains information on—

- (a) loss minimization;
- (b) claims notification as provided under the terms of the policy; and
- (c) the need for claimant to cooperate with the insurer and other service providers in the processing of the claim.

Valuation of Motor Vehicles

7. An insurer shall ensure that valuation of motor vehicles shall be carried out at inception or subsequent renewal of cover and the valuation shall form the basis of settlement of any claim.

Repair of Motor Vehicles

8. (1) Accident vehicles shall be repaired by a repairer of the insured choice selected from the insurer's panel of repairers, provided that where the insured chooses one outside the panel, the insurer shall ascertain that the repairer is competent to carry out such repairs and has complied with all statutory requirements to carry out such business.

(2) A copy of the assessment report containing a list of parts to be repaired and replaced shall be made available to the claimant.

Contribution Towards Repairs

9. An insured shall only be called upon to contribute towards repairs where—

- (a) components in the vehicle are subject to continuous wear and tear and such components shall include—
 - (i) tyres and tubes;
 - (ii) batteries;
 - (iii) engine overhaul parts; and
 - (iv) gear box, transmission and transfer cases.
- (b) the vehicle requires rebranding after repairs; and
- (c) the repair requires a set of similar items to be replaced whilst only one of the items was damaged in the accident.

Claim of Notification

10. (1) Notification of the claim shall be done as per the insurance policy terms and conditions.

(2) Where a claim notification is received by an insurance intermediary, such notification shall immediately be transmitted to the insurer not later than two (2) working days.

(3) Any claims notified through an intermediary shall be deemed to have been notified to the insurer.

Acknowledgement of Claim Notification

11. An insurer shall take the following action immediately but not later than two (2) working days, upon receipt of claim notification —

- (a) acknowledge the notification;
- (b) avail an appropriate claim form and if specific documents are required for processing the claim, the insurer shall provide a list of all the documents;
- (c) provide any additional information or advice that will assist in dealing with the claim; and
- (d) appoint a service provider(s) as necessary.

Receipt of Claims by the Company

12. (1) An insurer shall upon receipt of all the documents from the claimant —

- (a) acknowledge receipt of the documents within two (2) working days;
- (b) if a claim is admissible and can be settled immediately without any further assessment, effect the settlement of the claim;
- (c) if the claim is admissible but further assessment by a service provider is necessary to quantify the loss, appoint a service provider and advise the claimant on the action being taken and the insurer shall, upon receipt of the assessment report, make an offer to settle the claim;
- (d) where further investigation is necessary to determine admissibility of the loss under the policy, notify the claimant of this requirement; and
- (e) and within seven (7) calendar days of receipt of the investigation report, make an offer or communicate declination and the reasons thereof.

(2) An admission of liability as contemplated under the Act shall be construed to mean performance of an act by an insurer that is consistent with the settlement of the claim and shall include but not limited to making of an offer, issue of a discharge voucher, authorizing repair and replacements.

(3) If in the opinion of the insurer the loss is not covered by the insurance policy, the insurer shall after exhausting their internal mechanisms on declining a claim, immediately send a notification to the claimant explaining the reasons for declining the claim; and

(4) If the amount offered is different from the amount claimed, the insurer shall explain the reason for this to the claimant and avail to the claimant the assessment report.

(5) Where the insurer declines part of a claim, the insurer shall promptly notify the claimant of this fact and explain the reasons.

(6) An insurer shall not repudiate a claim on the basis of late notification without establishing the reasons thereof.

Decline of Claim

13. An insurer shall not decline a claim on the grounds of—

- (a) non-disclosure of material facts which a policyholder will not reasonably be expected to have known;
- (b) pre-existing or congenital medical conditions which had not been previously diagnosed;
- (c) misrepresentation unless it is fraudulent or negligent misrepresentation of material facts;
- (d) breach of warranty or condition where the circumstances of the loss are unconnected with the breach;
- (e) late reporting without establishing and considering the reasons for the late notification;
- (f) a breach of policy conditions where the policyholder was not issued with the policy document at inception of the policy;
- (g) non-payment of premium to an insurer where cover has not been cancelled or where cancellation has been done through an intermediary and not communicated to the policyholder; and
- (h) expiry of a driving license at the time of the accident provided that the driver was not disqualified from holding such a license at the time of the accident.

Procedure Manual

14. (1) Every insurer shall develop and maintain a manual on their claims handling procedures which shall include all steps from claim intimation to settlement for different classes of insurance business.

(2) The manual shall provide expected timeframes in each of the steps, provided that the insurer shall, while setting the time frames take into consideration the provisions of the Act.

(3) An insurer, while formulating the manual, shall put in place clearly defined controls and reporting systems surrounding the claims management process.

(4) An insurer shall update the claimant on status of the claim in a timely and fair manner.

Insurance Fraud

15. (1) An insurer shall take the following steps to eradicate fraudulent claims —

- (a) establish systems and controls for detecting and prevention of fraudulent claims; and
- (b) discourage fraudulent practices by informing the claimant of the consequences of submitting false statements.

(2) An insurer shall report fraudulent claims to the Authority and maintain a database of the same.

Salvage Disposable

16. An insurer shall not dispose of salvage before the insured is indemnified.

Customer Service

17. (1) An insurer shall establish a well-resourced customer service function, depending on the nature, scale and complexity of the insurer's operations, to address queries and complaints related to claims.

(2) An insurer shall have a documented procedure and timelines for receiving, registering and resolving complaints and the same be replicated in each of its offices.

Enforcement

18. Where the Authority determines non-compliance with the provisions of these Guidelines, it may take any intervention prescribed in the Act including —

- (a) directing the insurer, intermediary or the service provider to take appropriate remedial action;
- (b) imposing additional reporting requirements and monitoring activities;
- (c) withdrawing or imposing conditions on the business license taking into account the nature of the breach;
- (d) imposing monetary penalties as provided for under the Act; or
- (e) taking any other action as may be deemed necessary.

ABDIRAHIN ABDI

GEOFREY KIPTUM

*Chairperson,
Insurance Regulatory Authority.*

*Chief Executive Officer and
Commissioner of Insurance,
Insurance Regulatory
Authority.*

GAZETTE NOTICE NO. 3639

THE INSURANCE ACT

(Cap. 487)

THE INSURANCE (CORPORATE GOVERNANCE) GUIDELINES, 2022

STATEMENT OF INTENT

THE Insurance (Corporate Governance) Guidelines are made by the Insurance Regulatory Authority pursuant to section 3A (1) (g) of the Insurance Act and are intended to set minimum standards of good corporate governance practices by the entities. The aim is to promote the development, implementation and effective oversight of policies that clearly define and support the objectives of the entity, defining the roles and responsibilities of persons accountable for the management and oversight of an entity, setting requirements relating to how decisions and actions are taken, providing for communication, as appropriate, on matters relating to the management, conduct and oversight of the entity to stakeholders, and providing for corrective actions to be taken for non-compliance or weak oversight, controls or management.

Citation

1. These Guidelines may be cited as the Insurance (Corporate Governance) Guidelines, 2022.

Interpretation

2. In these Guidelines, unless the context otherwise requires —

“Board” means the Board of Directors of the regulated entity;

“corporate governance” means the systems, structures, policies and processes through which a regulated entity is managed and controlled;

“control function” means a function that is independent and provides the insurer's board of directors and management with an independent assessment of the quality and effectiveness of an insurers' internal control systems which include, risk management, actuarial, compliance and internal audit;

“fiduciary relationship” means the legal or ethical relationship between two or more parties;

“management staff” means the principal officer and the direct reports;

“Non-Executive Director” means a member of a board of an entity who is not involved in the day to day management of the entity;

“fit and proper criteria” means an assessment of the suitability of significant owners, board members, management staff and heads of control functions with respect to qualifications, financial soundness and integrity;

“regulated entity” means an insurer, insurance broker and bank assurance intermediary registered under the Act; and

“principal officer” means the Chief Executive Officer or Managing Director approved by the Authority and responsible for the general control, direction and supervision of the regulated entity.

Application

3. These Guidelines shall apply to regulated entities.

Purpose

4. The purpose of these Guidelines is to set minimum standards of good corporate governance practices by the entities.

General Principles

5. A regulated entity shall develop a corporate governance framework —

- (a) to promote the development, implementation and effective oversight of policies that clearly define and support the objectives of a regulated entity;
- (b) to define the roles and responsibilities of persons accountable for the management and oversight of a Regulated Entity;
- (c) to set requirements relating to how decisions and actions are taken;
- (d) to provide for communication as appropriate, on matters relating to the management, conduct and oversight of a regulated entity to its stakeholders;
- (e) to provide for corrective actions to be taken for non-compliance or weak oversight, controls or management, and;
- (f) to adequately recognise and protect the interest of policy holders.

Governance Structure of the Board

6. (1) The board shall ultimately be accountable and responsible for the corporate governance framework.

(2) A regulated entity shall have an effective board that is accountable and responsible for the performance and conduct of its business.

(3) Delegation of board's functions to board committees or management does not absolve the board of its responsibilities;

(4) A regulated entity shall ensure that the management and board functions are clearly separated to enable the board to exercise its oversight function over management.

(5) A regulated entity shall ensure that the corporate governance framework meets the expectations of all its stakeholders.

(6) A regulated entity shall ensure that no member of its management sits in the board as a member except the Principal Officer.

(7) A regulated entity shall have an adequate number of board members that enable it to carry out its functions effectively and efficiently.

(8) Where the constitutive documents of the entity allow for the appointment of an alternate director, such an appointment shall be subject to approval by the Authority.

(9) A regulated entity shall ensure that one third of the board members are independent directors who shall not hold office for more than six years.

(10) An independent director shall be a person who—

- (a) has not been employed by a regulated entity within the preceding five (5) years;
- (b) is not associated to an adviser or consultant to a regulated entity or a member of the entity's management staff or a significant customer or supplier of the entity or with an organization that receives significant contributions from the entity or within the preceding five (5) years, has not had any business relationship with the entity;
- (c) has no personal service contract(s) with a regulated entity or a member of the entity's employees;
- (d) is not a member of the immediate family of any person described above; or
- (e) has not had any of the relationships described above with any affiliate of the entity.

(11) The board shall be composed of individuals with a balance of skills, diversity and expertise, who collectively possess the necessary qualifications commensurate with the size, complexity and risk profile of the entity.

(12) The Principal Officer shall be an *ex-officio* member of the board with no right to vote at the board meetings.

(13) All board members shall train on corporate governance with an institution recognized by the Authority.

(14) The board of a regulated entity shall have and maintain the necessary skills, knowledge and understanding of the entity's business to be able to fulfil their roles.

(15) The board of an entity shall establish and periodically review a board charter which defines the respective roles, responsibilities and functions of the board.

Responsibility of the Board

7. The board shall —

- (a) set a regulated entity's strategic objectives, the means of attaining the objectives and the procedures for monitoring and evaluating the progress made towards achievement of the objectives;
- (b) select, monitor and where necessary replacement of key executives and overseeing succession planning;
- (c) develop and implement human resource policies including a remuneration policy that is reviewed periodically which does not induce excessive or inappropriate risk taking;
- (d) be in charge of the overall direction of the business of the entity, including capital management, revenue streams, expenses and profitability;
- (e) align the corporate culture, corporate activities and behavior with the expectation that the entity will operate in a safe and sound manner, with integrity and in compliance with applicable laws, regulations and guidelines;
- (f) ensure that the entity has appropriate systems and functions for risk management and internal controls and to provide oversight to ensure that these systems and the functions that oversee them are operating effectively and as intended;

(g) set out nomination and appointment procedures, structure, function, re-election, removal and balance the board composition depending on the nature, scale and complexity of a regulated entity;

(h) set a regulated entity's values and standards, including ethical standards and ensure that obligations to policyholders and other stakeholders are met;

(i) devise policies to govern related party transactions;

(j) establish a policy on declaration of dividends to shareholders and participating policyholders if applicable;

(k) set out policies dealing with conflict of interest, fair treatment of customers and information disclosure;

(l) prepare financial statements and accounts; and

(m) inculcate an appropriate risk culture throughout the entity.

Fiduciary Duties

8. (1) The board shall establish clear roles and responsibilities in discharging its fiduciary and leadership functions.

(2) In exercising fiduciary duties, each board member shall —

- (a) exercise reasonable degree of care, skill and diligence;
- (b) act in the best interests of the company and not for any other purpose;
- (c) act honestly at all times and shall not place themselves in a situation where personal interests conflict with those of the company;
- (d) at all times exercise independent judgement;
- (e) devote sufficient time to carry out their responsibilities and enhance their skills;
- (f) promote and protect the image of the company;
- (g) owe their duty to the company and not to the nominating authority; and
- (h) owe the company a duty to hold in confidence all information available to them by virtue of their position as a board member.

Fit and Proper Criteria

9. The directors of an entity shall meet the "fit and proper criteria" as defined under paragraph 1.

Role of the Chairperson

10. The Chairperson of the board shall be an independent director who shall provide leadership to the board for its proper and effective functioning.

Board Committees

11. (1) The board shall establish board committees, depending on the nature, scale and complexity on the entity, to assist in discharging its duties and responsibilities.

(2) The Committees of the Board shall include— z

- (a) audit;
- (b) risk management;
- (c) policyholder protection;
- (d) finance and investment; and
- (e) ethics and compliance.

(3) The Board shall be responsible for monitoring and oversight of the committees.

(4) The committees of the board shall be composed of at least three members at any onetime to assist in discharging its duties and responsibilities.

(5) The chairperson of the board shall not be a member of any board committee.

(6) Where a committee of the board performs more than one function, the board shall ensure such a combination does not compromise the integrity or effectiveness of the combined functions.

(7) The committees of the board shall have clearly defined mandates, authority to carry out their respective functions and the degree of independence and objectivity as appropriate to the role of the committee.

(8) The chairperson of the committee in charge of the audit shall be an independent director of the board with accounting, finance or audit knowledge and experience.

(9) The Principal Officer shall not be a member of the Audit Committee.

Committees in Charge of Audit Function

12. The committee in charge of the audit function shall perform among others the following responsibilities —

- (a) provide an independent review of the effectiveness of the financial reporting process and internal control systems;
- (b) review the effectiveness of the internal audit function; and
- (c) recommend to the board for the appointment, re-appointment, dismissal, remuneration and terms of engagement of the external auditors and appointed actuaries.

13. (1) The committee of the board in charge of the risk management function shall ensure that the management maintains a sound risk management system and internal controls to safeguard policyholder's interest and the entity's assets.

(2) The committee shall determine the nature and extent of the significant risk which the board is willing to take in achieving its strategic objectives.

(3) The committee shall maintain a group-wide and aggregated view on the risk profile of the entity in addition to the individual risk profile.

Committee in Charge of Policyholder Protection

14. (1) The committee in charge of policyholder protection shall develop a mechanism of keeping the policyholders well informed and educated about insurance products, claims and complaint-handling procedures.

(2) The procedure shall at a minimum—

- (a) set out a policy on fair treatment of customers and monitor its implementation;
- (b) put in place proper procedures and effective mechanism to address complaints and grievances of policyholders; and
- (c) have fully documented internal procedures for resolving disputes between the customer and the entity or any other person acting on behalf of the entity

Ethics Function

15. Board's responsibilities in respect to the ethics functions shall be—

- (a) to establish and embed corporate ethical values, the ethics policy and code, ensure and monitor ethical business practices;
- (b) to set out a policy on anti-fraud and anti-corruption and monitor its implementation;
- (c) to supervise and monitor matters reported using the entity's whistle blowing or other confidential mechanisms for employees and others to report ethical and compliance concerns or potential breaches or violations; and
- (d) approve compliance framework, review their effectiveness on a regular basis and signoff on any material compliance issues or matters.

Committee in Charge of Nomination and Remuneration Function

16. The committee in charge of nomination and remuneration function shall set up a policy on nomination, remuneration and

performance of the board, Principal Officer, management and persons in control functions of the entity.

17. Management staff shall oversee the operations of the entity and provide direction on a day-to-day basis, subject to the objectives and policies set out by the board of directors, as well as other legal requirements.

(2) Management staff shall provide the board with comprehensive, relevant and timely information to enable the review of business objectives, business strategy and policies, and to hold Management staff accountable for performance.

Board Performance and Evaluation

18. (1) The board shall—

- (a) determine the board performance evaluation criteria; and
- (b) undertake an annual evaluation of board performance.

(2) The evaluation shall cover the board, committees of the board individual members, the chairperson, the Chief Executive Officer and the Company Secretary.

Role of Principal Officer

19. (1) The Principal Officer shall be the link between the board and management of the entity.

(2) The Principal Officer shall be responsible to the Board for the day to day running of the entity and shall—

- (a) ensure that the policies set out by the Board in the overall corporate strategy are implemented;
- (b) establish and maintain efficient and adequate internal control systems; and
- (c) design and manage the necessary management information system in order to facilitate efficient and effective communication within the institution.

Company Secretary

20. A regulated entity shall have a Company Secretary who shall provide guidance to the board on their duties and responsibilities and on matters of governance.

Enforcement

21. Where the Authority determines non-compliance with the provisions of these Guidelines, it may take any intervention prescribed in the Act.

ABDIRAHIN ABDI,

GEOFFREY KIPTUM

*Chairperson,
Insurance Regulatory Authority.*

*Chief Executive Officer and
Commissioner of Insurance,
Insurance Regulatory Authority.*

GAZETTE NOTICE NO. 3640

THE INSURANCE ACT

(Cap. 487)

THE INSURANCE (EXTERNAL AUDITORS AND APPOINTED ACTUARIES) GUIDELINES, 2022 STATEMENT OF INTENT

THE Insurance (External Auditors and Appointed Actuaries) Guidelines are made by the Insurance Regulatory Authority pursuant to section 3A (1) (g) of the Insurance Act and are intended to provide for mechanism of conducting independent review and reporting on the financial condition of an insurer by ensuring that there is a reliable financial reporting framework, there are clearly defined roles and responsibilities of the board, management, external auditor and appointed actuary in regard to financial reporting, there is reasonable assurance that the financial statements are free from material misstatement, whether due to fraud or error and that the insurer has an appointed actuary to give assurance on actuarial matters.

Citation

1. These Guidelines may be cited as the Insurance (External Auditors and Appointed Actuaries) Guidelines, 2022.

Interpretation

2. In these Guidelines, unless the context otherwise requires—

“Act” means the Insurance Act.

“actuarial function” means a control function of an insurer dealing with actuarial matters;

“appointed actuary” means an external and independent actuary with qualifications as indicated in section 2 of the Act; and

“regulated entry” means a corporate entity registered under the Act;

Application

3. These Guidelines shall apply to all corporate entities registered under the Act.

Objectives

4. The purpose of these Guidelines is to ensure that—

- (a) there is a reliable financial reporting framework;
- (b) there are clearly defined roles and responsibilities of the board, management, external auditor and appointed actuary in regard to financial reporting;
- (c) there is reasonable assurance that the financial statements are free from material misstatement, whether due to fraud or error; and
- (d) the insurer has an appointed actuary to give assurance on actuarial matters.

Corporate entities registered under the Act*Applicable Financial Reporting Standards*

5. A regulated entity shall prepare their financial statements on an annual basis and in accordance with the International Financial Reporting Standards (IFRS) or any other approved financial reporting standards which shall be audited in accordance with the International Standards on Auditing (ISA).

External Auditors*Appointment of External Auditor*

6. (1) An insurer shall, on an annual basis, appoint an external auditor who shall be approved by the Authority.

(2) An external auditor appointed under subparagraph (1) shall —

- (a) be a member of the Institute of Certified Public Accountants of Kenya (ICPAK) or any other professional accounting body recognized by the Authority;
- (b) be authorized by the Institute of Certified Public Accountants of Kenya to practice;
- (c) have at least five years’ experience in insurance practice; and
- (d) meet the fit and proper requirements specified by the Authority.

Functions of the External Auditor

7. (1) An external auditor shall—

- (a) audit the financial statements and report to the regulated entity;
- (b) confirm that the financial statements have been prepared in accordance with the provisions the Act;
- (c) confirm the application of the assets of the statutory fund in accordance with the Act;
- (d) evaluate the objectivity of the actuarial reviews;
- (e) perform a liability adequacy test;
- (f) evaluate the appropriateness of the actuarial inputs into the financial statements; and
- (g) carry out such other duties as may be required of the auditor under the Act, Regulations and these Guidelines.

(2) An insurer shall ensure that—

(a) the audit partner, the audit manager and the supporting staff are not engaged for a period of more than four (4) consecutive years;

(b) an audit firm shall not be engaged for a period of more than seven (7) consecutive years and the same shall not be re-engaged before expiry of a period of three (3) years.

(3) The audit report shall be signed by the audit partner approved by the Authority.

An Actuary*Appointment of an Actuary*

8. An insurer shall, on an annual basis, engage an actuary who shall be the appointed actuary.

Functions of the Actuary

9. (1) The appointed actuary shall—

- (a) meet the requirements of the Act;
- (b) be a fellow of The Actuarial Society of Kenya (TASK) or any other society recognized by the Authority;
- (c) have at least five years experience in actuarial and insurance practice;
- (d) meet the fit and proper requirements specified by the Authority; and
- (e) be approved by the Authority.

(2) The appointed actuary shall, for each financial year, prepare —

- (a) Actuarial Valuation Report in accordance with the Act and these Guidelines; and
- (b) Financial Condition Report.

Financial Condition Report

10. (1) The Financial Condition Report shall at a minimum contain —

- (a) a declaration that the actuary’s reporting has been prepared in accordance with the Guidelines and actuarial principles;
- (b) a statement on the consistency, completeness and accuracy of the information used in the preparation of the financial condition report;
- (c) a statement on the insurer’s governance structure;
- (d) a statement of business plans, performance and projections;
- (e) an analysis of past financial performance and deviations from the projected performance for the last three (3) years;
- (f) an analysis of the adequacy of technical provisions for the last three (3) years;
- (g) a statement on the premium adequacy, pricing and material issues arising from the insurer’s pricing processes, underwriting and claim management practices;
- (h) an analysis on the adequacy of the asset and liability management of the insurer;
- (i) a review of the insurer’s capital management strategy;
- (j) a review of the adequacy of an insurer’s reinsurance strategy and arrangements for the last three (3) years;
- (k) a review of the insurer’s risk profile and the effectiveness of the risk management framework
- (l) recommendations in respect of issues identified during the assessment of the financial condition of the insurer;
- (m) a statement on the extent to which the insurer has addressed the recommendations provided in the financial condition report of the previous year; and
- (n) any other information as may be required of the appointed actuary under the Act, Regulations and these Guidelines.

(2) The Actuarial Valuation Report and the Financial Condition Report shall be signed off by—

- (a) the appointed actuary;
- (b) two (2) directors; and
- (c) the principal officer.

General requirements

Independence

11. A regulated entity shall ensure that the external auditor and the appointed actuary are independent and have no conflict of interest.

Submission of Independence Declaration Forms

12. A regulated entity shall submit the fit and proper Form and independence declaration Form as may be specified by the Authority to be completed by the external auditor and the appointed actuary on an annual basis when seeking approval for their appointment.

Notification of Impairment of Independence

13. (1) A regulated entity shall in writing notify the Authority within seven days of any circumstance that may impair the independence, fitness and propriety of the external auditor or the appointed actuary.

(2) A regulated entity shall within seven days notify the Authority of the resignation or replacement of an external auditor or the appointed actuary and give reasons for the resignation or replacement.

(3) A regulated entity may be required to replace an external auditor or an appointed actuary when the external auditor or the appointed actuary fails to adequately perform their functions, is subject to conflict of interest or no longer meets the eligibility requirements.

(4) The external auditor and appointed actuary shall within seven (7) days, of becoming aware of any breach, report to the Authority in circumstances where the insurer has breached or its directors may have contravened the Act or any other law where the contravention may prejudice the interests of policyholders, or is likely to breach capital adequacy requirements.

(5) Where such a report is made directly to the Authority, the appointed actuary is not under any obligation to disclose this to the management and board of the insurer if—

- (a) considers that by doing so the interests of policyholders may be jeopardized; or
- (b) has lost confidence in the board or management of the insurer.

Responsibilities of the Board

14. (1) The board of a regulated entity shall carry out the following functions—

- (a) design and implement an effective financial reporting system;
- (b) prepare the entity's financial statements in accordance with the approved financial reporting framework;
- (c) oversee the audit and actuarial processes and review both the audit and actuarial plans and address the material findings;
- (d) oversee the processes for hiring, removing and assessing the performance and independence of the external auditor and appointed actuary;
- (e) facilitate provision of relevant information to the appointed actuary; and
- (f) be accessible to the appointed actuary.

(2) The board of a regulated entity shall safeguard and promote an effective relationship with the external auditor and the appointed actuary by ensuring that—

- (a) the terms of engagement of the external auditor and the appointed actuary are clear and appropriate to the scope of

these functions and resources required to perform the functions and specify the level fees to be paid;

- (b) the tasks are performed in accordance with the terms of the engagement and the relevant guiding principles;
- (c) there are adequate policies and processes to ensure the independence, periodic rotation, ethical and professional standards of these functions;
- (d) there is adequate dialogue with the external auditor and appointed actuary on the scope and timing of the functions;
- (e) there is sufficient access by the external auditor and appointed actuary to information and persons within the entity as necessary to perform the functions; and
- (f) there is an evaluation of the effectiveness of the audit and actuarial processes at the end of the reporting cycle.

Reporting Requirements

15. A regulated entity shall submit for each financial year, reports as prescribed in the Act and as the Authority may require from time to time.

Enforcement

16. Where the Authority determines non-compliance with the provisions of these Guidelines, it may take any intervention prescribed in the Act including—

- (a) prohibiting the regulated entity from declaring and paying dividends;
- (b) declaring that a person may not take the office of external auditor or appointed actuary;
- (c) revoking the approval of external auditor or appointed actuary;
- (d) reporting any misconduct by the officers involved in the audit or actuarial review to the relevant professional body;
- (e) rejecting an audit or actuarial report, and require the regulated entity to commission another audit or actuarial valuation at the expense of the regulated entity;
- (f) directing the entity to take appropriate remedial action;
- (g) imposing additional reporting requirements and monitoring activities; and
- (h) withdrawing or imposing conditions on the business license taking into account the nature of the breach.

ABDIRAHIN ABDI,

Chairperson,

Insurance Regulatory Authority.

GEOFFREY KIPTUM,

Chief Executive Officer and

Commissioner of Insurance,
Insurance Regulatory Authority.

GAZETTE NOTICE NO. 3641

THE INSURANCE ACT

(Cap. 487)

THE INSURANCE (PRODUCTS) GUIDELINES, 2022

STATEMENT OF INTENT

THE Insurance (Products) Guidelines are made by the Insurance Regulatory Authority pursuant to section 3A (1) (g) of the Insurance Act and are intended to enhance the transparency and efficiency of the product approval process by providing insurers and intermediaries with guidance on what constitutes a new or repackaged product; and detailing the information required to be submitted to the Authority when submitting new or repackaged products for approval.

Citation

1. These Guidelines may be cited as the Insurance (Products) Guidelines, 2022.

Interpretation

2. In these Guidelines, unless the context otherwise requires—

“insurer” means a person, registered under the Act, who carries on insurance business;

“insurance product” means products and services developed, marketed and offered by an insurer;

“new product” means an insurance product that is to be introduced in the market and has not previously sold by an insurer;

“pilot testing” in relation to new product, means offering an insurance product to a few select customers on an experimental basis to assess the performance of the product before it is offered to the larger market;

“repackaged product” means an existing insurance product that has been enhanced or varied;

“Shari’ah Advisory Council” means a committee of scholars who are well-versed and competent in Shari’ah and its approaches to finance and are appointed by the insurer; and

“treating customer fairly” means an outcome based regulatory and supervisory approach designed to ensure that an entity delivers specific, clearly set out fairness outcome for its customers.

Application

3. These Guidelines shall apply to all insurers and intermediaries registered under the Insurance Act.

Purpose

4. The purpose of these Guidelines is to enhance the transparency and efficiency of the product approval process by—

- (a) providing insurers and intermediaries with guidance on what constitutes a new or repackaged product; and
- (b) detailing the information required to be submitted to the Authority when submitting new or repackaged products for approval.

General Requirements

5. (1) The board and management of an insurer shall be responsible for the development of new or repackaged products.

(2) An insurer shall develop, document and implement policies and procedures to prudently manage risks associated with the products it offers and ensure the needs and rights of consumers are appropriately addressed.

(3) When designing and pricing an insurance product, an insurer shall consider among others—

- (a) that the new product falls within the ambit of insurance business;
- (b) adherence to principles relating to the fair treatment of customers;
- (c) evolving needs of the customer;
- (d) policyholders’ reasonable expectations;
- (e) transparency and clarity in wordings, terms, coverage, exclusions and conditions;
- (f) sound and prudent underwriting and actuarial basis;
- (g) information relating to the product should be in simple and understandable language;
- (h) the terms, conditions, exclusions and warranties of the contract shall be fair to both parties;
- (i) appropriate data or technical justification;
- (j) the underwriting policy of the insurer;
- (k) assigning capital to all products and monitoring of the performance of the product to gauge the continuing need of capital;
- (l) a business case for new or enhanced product;
- (m) pilot testing and analysis to be done after a no objection by the Authority;
- (n) cost benefit analysis;

(o) risk identification, assessment and mitigation;

(p) an implementation plan for the product, including milestones;

(q) clearly defined and appropriate levels of delegation for approval of all material aspects of product design;

(r) post-implementation review; and

(s) an actuarial review during the pricing process.

Filing

6. (1) An application for approval of a product shall contain —

- (a) formal application letter giving indication to the Authority of the piloting, commencement of sale or launch of the product;
- (b) the policy wording documentation;
- (c) proposal form;
- (d) claim form;
- (e) marketing brochure;
- (f) actuarial premium pricing structure or actuary’s report for life insurance products;
- (g) reinsurance agreement or statement;
- (h) Product Business Plan (at least three years);
- (i) Service Level Agreement (if applicable);
- (j) demonstration of measures taken during product design to prevent the use of the product for Money Laundering and Terrorism Financing;
- (k) an approval from Shariah Advisory Council in case of takaful products; and
- (l) any other relevant information.

(2) The proposal form, claim form and marketing brochure of an insurance product shall prominently bear the name of the insurer and that the insurer is regulated by the Insurance Regulatory Authority.

(3) The insurer shall only commence the pilot or sale of an insurance product upon receipt of a letter of no objection for the pilot or an approval for the sale from the Authority.

(4) An insurer or intermediary shall market and promote insurance products or services in a manner that is clear, fair, truthful and conforms to the approved product.

Meeting

7. (1) The marketing information provided shall —

- (a) be easily understandable;
- (b) be consistent with the result reasonably expected to be achieved by the majority of customers of that product including illustrations where necessary;
- (c) state prominently the basis for any claims or benefits and any significant limitations;
- (d) not hide, diminish or obscure important statements or warnings; and
- (e) be consistent with the terms and conditions of their application to the Authority.

(2) If an insurer or intermediary becomes aware that the information provided is not accurate and clear or is misleading, it shall withdraw the information and notify any persons that it knows to be relying on the information as soon as reasonably practicable.

(3) An insurer or intermediary shall ensure that any advertising and promotional material is consistent with the terms and conditions of their application to the Authority.

Reporting

8. An insurer or an intermediary shall submit annual reports to the Authority on the performance of each approved product, for a period of three years after the commencement of the sale in a specified form.

Withdrawal

9. (1) An insurer or intermediary who intends to withdraw any insurance product shall —

- (a) notify the Authority of the intention to withdraw the insurance product from the market including reasons for the withdrawal; and
- (b) satisfy the Authority that it has put in place sufficient measures to protect the interests of the existing policyholders.

(2) The Authority may at its discretion require the insurer or intermediary to notify the public of the withdrawal of an insurance product from the market.

Enforcement

10. Where the Authority determines non-compliance with the provisions of these Guidelines, it may take any intervention prescribed in the Act and may include the following —

- (a) direct the insurer or intermediary to take appropriate remedial action;
- (b) withdraw or impose conditions on the sale of the insurance product taking into account the nature of the breach;
- (c) impose additional reporting requirements and monitoring activities;
- (d) withdraw or impose conditions on the business license taking into account the nature of the breach;
- (e) impose monetary penalties as provided for under the Act; and
- (f) take any other action as may be deemed necessary.

ABDIRAHIN ABDI,

GEOFFREY KIPTUM,

*Chairperson,
Insurance Regulatory Authority.*

*Chief Executive Officer and
Commissioner of Insurance,
Insurance Regulatory Authority.*

GAZETTE NOTICE NO. 3642

THE INSURANCE ACT

(Cap. 487)

THE INSURANCE (MARKET CONDUCT) GUIDELINES, 2022

STATEMENT OF INTENT

THE Insurance (Market Conduct) Guidelines are made by the Insurance Regulatory Authority pursuant to section 3A (1) (g) of the Insurance Act and are intended to strengthen public trust and consumer confidence in the insurance sector through ensuring that the entity maintains high standards of integrity and fair dealing in conduct of their business, exercises due care and act in a diligent manner in dealing with customers, promotes products and services in a manner that is fair and not misleading, obtains sufficient information about the customer to assess their insurance needs and treat confidential information as such and communicates relevant and meaningful information in a timely and comprehensive manner to policyholders.

Citation

1. These Guidelines may be cited as the Insurance (Market Conduct) Guidelines, 2022.

Interpretation

2. In these Guidelines, unless the context otherwise requires —

“Act” means the Insurance Act;

“treating customers fairly” means an outcome based regulatory and supervisory approach designed to ensure that a regulated entity delivers specific, clearly sets out fair outcomes for its customers;

“market conduct” means elements of regulation and supervision focusing on a regulated entity’s behaviour including non-distortive and non-abusive business practices and information disclosures;

“conduct of business risk” means any action by a regulated entity that is detrimental to consumers of insurance services and products or may lead to instability of the insurance industry in a way that does not ensure fair treatment of customers;

“regulated entity” means persons registered under the Insurance Act; and

“service provider” refers to Risk Managers, Motor Assessors, Insurance Investigators, Loss Adjustors, Insurance Surveyors;

Application

3. These Guidelines shall apply to regulated entities.

Purpose

4. The purpose of these Guidelines is —

- (a) to promote public trust and consumer confidence in the insurance industry;
- (b) to ensure that a regulated entity maintains high standards of integrity, exercises due care and act in a diligent manner in dealing with customers;
- (c) to ensure that a regulated entity markets and distributes products and services in a manner that is fair and not misleading;
- (d) to ensure that a regulated entity obtains sufficient information to conduct a needs assessment on potential customers, the information is treated in a confidential manner and is used for the intended purposes only; and
- (e) to ensure that a regulated entity communicates relevant and meaningful information in a timely and comprehensive manner to customers.

General Principles

5. (1) A regulated entity shall develop, document and implement a conduct risk framework.

(2) The ultimate responsibility for fair treatment of customers shall rest with the board and management of the entity.

(3) A regulated entity shall make relevant policies and procedures publicly available, in particular the claims handling, complaints handling and dispute resolution.

(4) A regulated entity shall exercise due care, skill and diligence when dealing with customers.

Fair Treatment of Customers

6. (1) A regulated entity shall develop and implement policies and procedures for fair treatment of customers, including taking appropriate measures to ensure that its employees, service providers and intermediaries meet high standards of ethics and integrity.

(2) Fair treatment of customers encompasses achieving outcomes which include —

- (a) developing and marketing products in a way that pays due regard to the interests of customers;
- (b) providing customers with clear information before, during and post sale;
- (c) ensuring that the product being offered is appropriate to a given customer’s needs and interests;
- (d) ensuring that any advice given is of high quality;
- (e) dealing with customer complaints and disputes in a fair manner and timely provision of feedback;
- (f) protecting the confidentiality of information obtained from customers; and
- (g) managing reasonable expectations of customers.

(3) A regulated entity shall ensure that the fair treatment of customers is entrenched in its culture and shall include the following —

- (a) designing, implementing and monitoring adherence to policies and procedures aimed at ensuring that customers are treated fairly;
- (b) designing of the business strategy taking into consideration fair treatment of customers;

- (c) identifying, collecting and evaluating relevant information for monitoring fair treatment of customers;
 - (d) establishing mechanisms and controls to ensure that all departures from policies and procedures as well as all other situations that jeopardize the protection of the interests of customers are promptly remedied; and
 - (e) training relevant staff to deliver appropriate outcomes in terms of fair treatment of customers.
- (4) A regulated entity shall promote insurance products and services in a manner that is clear, fair and not misleading.

Information Disclosure

7. (1) A regulated entity shall be responsible for provision of information that is accurate, clear and not misleading not only to customers but also to other entities who may rely on this information in providing advice to customers.

(2) A regulated entity shall, if it subsequently becomes aware that the information provided is not accurate and clear or is misleading, withdraw the information and notify any person that it knows or deems to be relying on the information as soon as reasonably practicable

(3) A regulated entity shall ensure that the information disclosed is accurate in all material respects, not misleading, easily understandable and available in writing or appropriate electronic means.

(4) A regulated entity shall provide at a minimum the following information—

- (a) features of the insurance product;
- (b) benefits, costs and risks to the customer;
- (c) rights and obligations of the parties involved;
- (d) complaints handling procedures; and
- (e) duty of customers to disclose material information.

(5) A regulated entity shall—

- (a) provide a customer with a full and fair account of the status of the policy regularly and at least annually;
- (b) assess the customer's needs, before giving advice or concluding a contract;
- (c) explain and document the basis on which a recommendation is made, particularly in the case of complex products and products with an investment element;
- (d) have appropriate policies and procedures to identify and manage conflicts of interest;
- (e) identify and manage conduct of business risks arising out of outsourcing arrangements; and
- (f) develop and implement policies and procedures for the protection of confidential information on customers.

Development and Marketing of Products Policy Servicing

8. (1) An insurer shall—

- (a) take into account the interests of different types of customers when developing and marketing insurance products;
- (b) carry out a diligent review of the product in relation to its business model, the existing rules and regulations as well as its risk management approach; and
- (c) issue a policy document within 14 days after inception of cover.

(2) An insurer shall—

- (a) provide support to intermediaries to ensure that they understand the target market and thus reduce the risk of mis-selling;
- (b) ensure that agents undertake a refresher course as a requirement for renewal of license once every three years; and
- (c) review the advice given by the agents to ascertain the quality of advice given and take any necessary remedial measures.

(3) An insurer shall ensure that their conduct risk framework incorporates policy servicing throughout the life cycle of the product until all obligations under the policy have been discharged.

Intermediaries

9. (1) An intermediary shall —

- (a) disclose to the customer their role in the transaction and the relationship the intermediary has with the insurer including the basis on which they are remunerated;
- (b) quote terms exactly as provided by the insurer;
- (c) ensure that where a proposal form is used, the form is completed and signed by the customer;
- (d) disclose and explain to the potential customers the terms and conditions of the policy;
- (e) provide the customer with a prompt written confirmation that insurance has been effected;
- (f) ensure that where the policy document is not provided together with the confirmation of insurance cover, the policy document is issued within fourteen (14) days of inception of cover;
- (g) provide an acknowledgement note, at the time of delivery of the policy document, to be signed and dated by the customer acknowledging receipt of the policy document; and
- (h) at the point of sale, inform the customer on the consequences of surrendering a life policy.

(2) The cooling off period shall commence on the date of receipt of the policy document by the policyholder.

Service Providers

10. An insurance service provider shall —

- (a) accurately disclose its role in any professional engagement;
- (b) disclose to the insured, claimant or a third party the principal on whose behalf they are acting;
- (c) only disclose information, pertaining to the insurer, insured or claimant acquired in the course of engagement, to a third party, with the consent of the concerned party; and
- (d) ensure that reports issued comply with all statutory requirements and meet the requisite professional standards.

Reporting

11. An insurer shall, on a quarterly basis submit to the Authority a complaints management report.

Enforcement

12. Where the Authority determines non-compliance with the provisions of these Guidelines, it may take any intervention prescribed in the Act including the following —

- (a) direct the regulated entity to take appropriate remedial action;
- (b) impose additional reporting requirements and monitoring;
- (c) withdraw or impose conditions on the business license taking into account the nature of the breach;
- (d) impose monetary penalties as provided for under the Act; and
- (e) take any other action as may be deemed necessary.

ABDIRAHIN ABDI,

GEOFFREY KIPTUM,

Chairperson,
Insurance Regulatory Authority.

Chief Executive Officer and
Commissioner of Insurance,
Insurance Regulatory Authority.

GAZETTE NOTICE NO. 3643

THE INSURANCE ACT

(Cap. 487)

THE INSURANCE (RISK MANAGEMENT AND CONTROL
FUNCTIONS) GUIDELINES, 2021

STATEMENT OF INTENT

THE Insurance (Risk Management and Control Functions) Guidelines are made by the Insurance Regulatory Authority pursuant to section 3A (1) (g) of the Insurance Act and are intended to ensure that insurers are managed in a prudent manner by having in place systems for identifying, assessing, monitoring and mitigating the risks that affect their ability to achieve their objectives.

Citation

1. These Guidelines may be cited as the Insurance (Risk Management and Control Functions) Guidelines, 2022.

Interpretation

2. In these Guidelines, unless the context otherwise requires—

“Act” means the Insurance Act;

“control function” means a function that is independent and provides the insurer’s board of directors and the management with an independent assessment of the quality and effectiveness of an insurers’ internal control systems;

“head of control function” means a person qualified to head an insurer’s control function; and

“insurer” means any insurer registered under the Act and includes insurance groups;

Application

3. These Guidelines shall apply to all insurers.

Purpose

4. The purpose of these Guidelines is to ensure that an insurer is managed in a prudent manner by putting in place systems for identifying, assessing, monitoring and mitigating the risks that affect achievement of its objectives.

General Principles

5. (1) An insurer shall have, as part of its overall corporate governance framework, effective systems of risk management and internal controls, including effective functions for risk management, compliance, actuarial and internal audit.

(2) The control functions shall be properly authorized and resourced to carry out specific activities and be commensurate to the nature, scale and complexity of the insurer’s business.

(3) Insurers who are part of a group shall undertake risk management on a legal entity basis as well as on a group-wide basis.

Responsibility of the Board of Directors

6. The roles and responsibilities of the insurer’s board of directors with regard to risk management and control functions shall be —

- (a) to oversee the development of a risk management strategy and framework, approve the same and ensure it is implemented;
- (b) to define the insurer’s risk appetite;
- (c) to review and approve the risk management policies and procedures;
- (d) to review the framework and risk appetite at least annually;
- (e) to ensure that the risk management framework is audited at least once every two years by appropriately trained and competent personnel that are operationally independent of the risk management activities;
- (f) to ensure that there is an appropriate organizational structure, with an appropriate level of independence between staff responsible for risk management and control functions and those responsible for operations;
- (g) to set authority levels and responsibilities of each control function and determine the content and frequency of reporting;
- (h) where applicable, to put in place an outsourcing policy and retain the ultimate responsibility in respect of the outsourced material activities or functions;
- (i) to ensure that the insurer complies with all applicable laws, regulations, supervisory directives and internal policies; and
- (j) to ensure that the insurer conducts its business ethically and responsibly.

Responsibility of Management

7. The roles and responsibilities of an insurer’s management with regard to the risk management and control functions shall include —

- (a) implementation of the risk management strategy and framework approved by the board;
- (b) translating the risk appetite set by the board into a system of risk management strategies and controls; and
- (c) implement the approved policies and procedures.

Risk Management Framework

8. (1) An insurer shall develop and submit to the Authority a risk management framework which shall be reviewed at least every two (2) years.

(2) The risk management framework shall, at a minimum, include the following.—

- (a) documented risk management policies, strategy, procedures and controls and its review process;
- (b) well-resourced risk management and control functions;
- (c) Updated Risk Register; and
- (d) well defined risk governance and responsibilities.

(3) The risk management framework shall address all material risks and shall at a minimum cover the following risks —

- (a) strategic – this is the risk associated with a company’s business model and how a company intends to position itself in the market. It arises from inability of an insurer to implement appropriate business plans, strategies, decision making, resource allocation and inability to adapt to changes in the business environment;
- (b) insurance – this is the risk of inadequate or inappropriate underwriting, pricing, reserving, claims management, product design and reinsurance arrangements that will expose a company to financial loss and the consequent inability to meet liabilities as and when they arise;
- (c) operational – this is the risk of loss resulting from inadequate or failed internal processes, people and systems, or from external events;
- (d) market and balance sheet – the risk of loss resulting from adverse investment returns caused by market price volatility, interest rate and credit spread changes and adverse foreign currency rate movements;
- (e) credit – this relates to the risk of default by borrowers and transactional counterparties leading economic loss to the insurer;
- (f) liquidity – this arises from an insurer’s inability to discharge its obligations when they fall due without incurring unacceptable costs or inability to transform its assets into cash or cash equivalent in a timely manner at a reasonable price;
- (g) legal and regulatory – this arises from a company’s non-conformance with laws, rules, regulations or prescribed practices;
- (h) conduct of business risk – means any action by a regulated entity that is detrimental to consumers of insurance services and products or may lead to instability of the insurance industry in a way that does not ensure fair treatment of customers; and
- (i) financial crime – this is the risk that products and services of the insurer can be used by criminals for money laundering and terrorist financing.

Key Control Functions

9. (1) An insurer shall have in place effective key control functions consisting of —

- (a) risk management;
- (b) compliance;
- (c) actuarial; and
- (d) internal audit.

(2) The control functions shall be headed by management staff with relevant qualifications and experience as provided for under section 31 (h) of the Act.

(3) The control functions shall be well positioned, resourced and empowered.

(4) The control functions shall be independent and have access to the board of directors and management.

(5) Where a control function is outsourced, the insurer shall seek prior approval from the Authority of the outsourcing arrangement.

Risk Management Functions

10. (1) The risk management function shall ensure that all of the insurer's significant risks are detected, measured, managed and duly reported.

(2) The risk management function shall be actively involved in mapping out the insurer's risk strategy as well as in all management decisions that have a significant influence on the risks

(3) The risk management function shall at a minimum—

- (a) design and implement an effective enterprise risk management framework;
- (b) assist the board of directors, management and the other functions in the effective operation of the enterprise risk management system;
- (c) monitor the enterprise risk management system;
- (d) monitor the general risk profile of the insurer as a whole;
- (e) report in detail on risk exposures and advise the board of directors and management on risk management matters; and
- (f) identify and assess emerging risks.

Compliance Function

11. (1) The compliance function shall ensure that the insurer complies with all rules, legal and regulatory requirements governing insurer's operations.

(2) The compliance function shall at a minimum—

- (a) assist the board of directors, management and the other functions of the insurer to ensure compliance with the relevant rules, laws and regulations;
- (b) monitor compliance by the insurer, directors, management, staff and authorized persons with rules, laws and regulations;
- (c) monitor compliance with internal policies and procedures; and
- (d) report on compliance and advise the board of directors and management on compliance matters.

Internal Audit Function

12. (1) The internal audit function shall conduct an independent assessment, and give assurance to the board and management, of the quality and effectiveness of the insurer's internal controls, risk management and governance system

(2) The internal audit function shall at a minimum—

- (a) establish, implement, and maintain an audit plan setting out the audit work to be undertaken, taking into consideration the nature, scale and complexity of the insurer;
- (b) submit the audit plan to the board for approval;
- (c) report on the internal audit findings and recommendations to the board of directors; and
- (d) monitor implementation of decisions made by the board of directors to management with regard to the internal audit recommendation.

Actuarial Function

13. The actuarial function shall at a minimum —

- (a) advise on the design and pricing of products and adequacy of reinsurance arrangements;
- (b) calculate technical provisions;
- (c) ensure that the methodologies, underlying models and assumptions used for the calculation of the technical provisions are suitable;
- (d) assess the sufficiency and quality of the data used in the calculation of technical provisions;
- (e) compare best estimates against experience;
- (f) assess the insurer's current and prospective capital adequacy;
- (g) evaluate and advise on the insurer's investment policies and the valuation of assets;
- (h) advise on the distribution of surplus;
- (i) conduct scenario and sensitivity testing;
- (j) report to the board of directors and management on any circumstances that may have a material effect on the insurer from an actuarial perspective;
- (k) report to the board of directors and management on the reliability and adequacy of the calculation of technical provisions, premium rates and capital adequacy;
- (l) ensure the adequacy of the technical provisions adopted for statutory and financial reporting; and
- (m) advise on risk modelling and use of internal models where applicable.

Reporting Requirements

14. (1) An insurer shall, on a quarterly basis, submit to the Authority the following reports signed off by the Principal Officer and the respective heads of control function—

- (a) risk management report;
- (b) compliance report;
- (c) internal audit report; and
- (d) actuarial report on capital adequacy and valuation of technical provisions.

(2) The heads of control functions are required to report to the Authority directly where an insurer or its directors may have contravened the Act or any other law and the contravention may prejudice the interests of the policyholders, insurance beneficiaries and claimants.

Enforcement

15. Where the Authority determines non-compliance with the provisions of these Guidelines, it may take any intervention prescribed in the Act including—

- (a) disqualifying or revoking the appointment of an individual in a position as board member, management or key person in a control function;
- (b) prohibiting the insurer from declaring or paying dividends;
- (c) imposing additional reporting requirements;
- (d) withdrawing or imposing conditions on the business license as provided for under the Act;
- (e) reporting misconduct by any person in a position as director, management staff or key person in a control function to the relevant professional body;
- (f) imposing monetary penalties as provided for under the Act; and
- (g) taking any other action as may be deemed necessary.

ABDIRAHIN ABDI,

GEOFREY KIPTUM,

Chairperson,
Insurance Regulatory Authority.

Chief Executive Officer and
Commissioner of Insurance,
Insurance Regulatory Authority.