

STATUTORY INSTRUMENTS SUPPLEMENT

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S T A T U T O R Y I N S T R U M E N T S

2020 No. 98.

THE INSURANCE (REINSURANCE) REGULATIONS, 2020

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STATUTORY INSTRUMENTS

2020 No. 98

The Insurance (Reinsurance) Regulations, 2020

(Under section 151 of the Insurance Act, 2017, Act 6 of 2017)

IN EXERCISE of the powers conferred upon the Minister, and in consultation with the Insurance Regulatory Authority of Uganda, these Regulations are made this 17th day of June, 2020.

1. Title

These Regulations may be cited as the Insurance (Reinsurance) Regulations, 2020.

2. Application of Regulations

(1) These Regulations apply only to licensed insurers, reinsurers and HMOs.

(2) For the avoidance of doubt, these Regulations do not limit the obligation of a licensed insurer or HMO to make mandatory reinsurance placements in accordance with the Act.

3. Interpretation

In these Regulations, unless the context otherwise requires—

“Act” means the Insurance Act, 2017;

“alternative risk transfer” means any form of risk transfer by an insurer, other risk transfer than through a traditional reinsurance agreement, that has an element of insurance risk, rather than purely financial risk, including—

- (a) securitisation of insurance risks, including through insurance-linked securities;
- (b) catastrophe bonds;

- (c) reinsurance sidecars;
- (d) industry loss warranties; and
- (e) finite reinsurance;

“Authority” means the Insurance Regulatory Authority of Uganda established by section 10 of the Act;

“cedant” means an insurer that transfers risk to a reinsurer under a reinsurance contract or a reinsurer that transfers risk to another reinsurer under a retrocession contract;

“facultative reinsurance” means the reinsurance of a single individual risk or a specified group of individual risks on the basis of an offer by the cedant and acceptance by the reinsurer where the reinsurer is not under an obligation to accept each offer by the cedant;

“foreign reinsurer” means a foreign insurer whose primary business is the business of entering into reinsurance contracts, as reinsurer;

“fronting arrangement” means an arrangement through which an insurer cedes more than ninety-five percent of the risk under an insurance contract that it has entered into, to another insurer or reinsurer, while remaining liable under the insurance contract to the insured;

“licensed insurer” means a person who holds an insurer’s licence;

“mandatory reinsurance placement” means a placement of reinsurance with a reinsurer which complies with section 74 of the Act;

“net retention” means the amount of risk that a cedant retains, after taking into account of all reinsurance contracts entered into by the cedant in relation to the risk concerned;

“pooling arrangement” has the meaning specified in regulation 4;

“qualifying foreign reinsurer” has the meaning specified in regulation 5;

“reinsurance contract” means an insurance contract under which one insurer, referred to as the reinsurer, indemnifies, or otherwise compensates another insurer referred to as the cedant, against losses on one or more contracts of insurance entered into by the cedant;

“retention” means the amount of risk that a cedant retains after entering into a reinsurance or retrocession contract with respect to the risk;

“retrocession contract” means a reinsurance contract where the cedant is a reinsurer;

“risk appetite” means the aggregate level and types of risk a licensed insurer, reinsurer or HMO is willing to assume within its risk capacity to achieve its strategic objectives and business plan;

“senior management”, in relation to a licensed insurer, reinsurer or HMO, means senior managers of the licensed insurer, reinsurer or HMO, who have collective responsibility for day-to-day management;

“treaty reinsurance” means reinsurance under which the cedant agrees to offer, and the reinsurer agrees to accept, all risks or a pre-determined proportion of risks within a defined class or type of insurance business that meet any pre-agreed criteria.

4. Meaning of “pooling arrangement”

(1) A pooling arrangement is an arrangement made between two or more licensed insurers, reinsurers or HMOs through which the participating licensed insurers, reinsurers or HMOs insure particular

types of agreed risk on the basis that the licensed insurers, reinsurers or HMOS will share the premiums, expenses, losses and profits in pre-agreed proportions.

(2) Without limiting the general effect of subregulation (1), a pooling arrangement may be established by the participating licensed insurers, reinsurers or HMOs acting directly as a group or through one or more third parties including insurance brokers and agents authorised by the participating licensed insurers, reinsurers or HMOs for the purpose, or operate through a separate entity established for that purpose.

(3) A co-insurance pool is a pooling arrangement made between licensed insurers and HMOs.

(4) A reinsurance pool is a pooling arrangement made between reinsurers.

5. Meaning of qualifying foreign reinsurer

(1) For purposes of section 67(2)(b) and 67(3)(b) of the Act, a qualifying reinsurer is a foreign reinsurer that has—

- (a) financial strength rating of—
 - (i) A +, A, B+, B or C+ assigned to it by the A. M. Best Company;
 - (ii) AAA, AA, A, BBB BB assigned to it by the Fitch Group or Standard & Poors; or
 - (iii) Aaa, Aa, A or Baa assigned to it by Moody's Corporation; or
- (b) such other financial strength rating by other companies as may be approved by the Authority.

(2) Where a foreign reinsurer has been rated by two or more of the above rating agencies, the most recent rating shall be used to determine whether the foreign reinsurer is a qualifying reinsurer.

6. Reinsurance strategy

(1) Every licensed insurer, reinsurer and HMO shall develop and maintain a written reinsurance strategy.

(2) Without limiting the generality of subregulation (1), the reinsurance strategy of a licensed insurer, reinsurer or HMO shall—

- (a) be appropriate for the nature, scale, complexity and diversity of its business, risk profile, and tolerance to risk;
- (b) form a part of its underwriting strategy and its overall risk management strategy;
- (c) set out the objectives of using reinsurance;
- (d) set out a clear methodology for determining the reinsurance arrangements including—
 - (i) the reinsurance to be purchased;
 - (ii) the setting of net retention limits; and
 - (iii) the selection of reinsurers;
- (e) provide for the assessment of the security of reinsurers and the collateral required, if any;
- (f) provide for the monitoring of reinsurance arrangements;
- (g) set out the risk appetite, including the determination of gross and net retention limits;
- (h) specify the types of reinsurance arrangements most appropriate to the licensed insurer, reinsurer or HMO, how to manage and limit the risks and how the level of risk tolerance is to be determined;
- (i) specify how credit risk is to be managed, including by—
 - (i) setting limits on risks ceded to individual reinsurers; and

- (ii) ensuring an adequate spread of risk between reinsurers;
 - (j) specify how liquidity risk arising from a timing mismatch between the payment of claims and the receipt of reinsurance recoveries is to be managed; and
 - (k) provide for the determination of whether reinsurance brokers and other intermediaries should be employed and, if so, their role and how they are to be selected, monitored and managed.
- (3) The reinsurance strategy shall take into account—
- (a) the structure of the reinsurance arrangements, including any alternative risk transfer arrangements;
 - (b) the licensed insurers or HMOs requirement to offer and make mandatory reinsurance placements;
 - (c) the extent to which relevant functions are outsourced; and
 - (d) the extent of any credit risk mitigation in place.

7. Reinsurance procedures

(1) Every licensed insurer, reinsurer and HMO shall develop and maintain written reinsurance procedures that provide for the implementation of the reinsurance strategy.

(2) For purposes of subregulation (1), the reinsurance procedures shall include—

- (a) underwriting procedures which shall specify the classes of insurance to be underwritten, policy terms and conditions and aggregate exposure by type of business;
- (b) the procedures for the selection of reinsurers, taking into account appropriate levels of aggregate exposure to a single reinsurer or different reinsurers in the same group and the credit risks associated with reinsurers;

- (c) the limits on the amount and class of insurance that shall be automatically covered by a reinsurance treaty;
- (d) the criteria for purchasing facultative reinsurance;
- (e) the criteria and procedures for fronting arrangements; and
- (f) the procedures that provide for—
 - (i) timely payments of reinsurance premiums to reinsurers, including foreign reinsurers; and
 - (ii) timely collections of reinsurance recoveries.

(3) The reinsurance procedures shall require that any deviation from the reinsurance strategy shall have the prior documented approval of the board of the licensed insurer, reinsurer or HMO.

8. Internal controls

The internal controls of a licensed insurer, reinsurer or HMO shall be designed to ensure that—

- (a) underwriting is carried out in accordance with the insurer's underwriting strategy and policies;
- (b) the reinsurance provided for in the reinsurance plan is operational;
- (c) the terms of reinsurance contracts entered into are in accordance with the reinsurance strategy and reinsurance plan;
- (d) claims under reinsurance contracts, are reported to the reinsurer in a timely fashion and in accordance with the reinsurance contract;
- (e) reinsurance claims payments are promptly collected; and
- (f) any failure to comply with any internal controls including those in paragraphs (a) to (e) are reported to senior management and the board.

9. Reinsurance plan

(1) Every licensed insurer, reinsurer and HMO shall develop and implement a reinsurance plan for each financial year.

(2) The reinsurance plan shall be consistent with the reinsurance strategy.

(3) Without limiting the general effect of subregulation (1), a reinsurance plan shall—

- (a) identify the risk retention levels appropriate for licensed insurers, reinsurers or HMOs tolerance to risk, by class of business and for its business taken as a whole, including setting—
 - (i) limits on net retention levels for the year;
 - (ii) the proportion of business to be ceded in the financial year, with the objective that net retentions are commensurate with its financial resources; and
- (b) specify—
 - (i) the reinsurance to be purchased by the insurer, reinsurer or HMO in the financial year;
 - (ii) whether collateral is to be required from any reinsurer and, if so, the amount and type of collateral required.

(4) The reinsurance plan shall take into account, and provide for, mandatory reinsurance placements.

(5) A licensed insurer, reinsurer or HMO shall submit its reinsurance plan to the Authority for approval not less than two months before the start of the financial year to which the plan relates.

(6) A licensed insurer, reinsurer or HMO shall submit to the Authority any proposed changes to its reinsurance plan within fourteen days of making the change for approval.

10. Limit on risks that may be retained by licensed insurer, reinsurer or HMO

(1) Every licensed insurer, reinsurer or HMO shall reinsure any single risk that comprises more than ten per cent of shareholders' funds.

(2) The terms and conditions of any reinsurance contract entered into by a licensed insurer, reinsurer or HMO, as cedant, shall be compatible with those of the insured risk, under the insurance contract so as to avoid uncovered risk.

11. Fronting and similar arrangements

(1) A licensed insurer, reinsurer or HMO shall not enter into a fronting arrangement with an another insurer or reinsurer without the prior written approval of the Authority.

(2) Subject to subregulation (1), a licensed insurer, reinsurer or HMO shall not offer an insurance contract underwritten or reinsured by another insurer, under its own name, in circumstances where the insurer retains less than five per cent of the risk insured under the contract, unless—

- (a) the insurer has given the Authority prior notice of not less than five days of its intention to front the risk; and
- (b) the insurer has, prior to the approval of the arrangement, evaluated the counterparty risk to which it is exposed and has determined that the arrangement is consistent with the risk management strategy of the insurer.

12. Alternative risk transfer arrangements

(1) A licensed insurer, reinsurer or HMO shall not, without the prior written approval of the Authority, enter into—

- (a) a contract that constitutes alternative risk transfer; or
- (b) any arrangement that constitutes a direct transfer of the risk under any insurance contract entered into by the insurer to the capital markets.

(2) An application for approval under subregulation (1) shall be in writing.

13. Co-insurance and reinsurance pools

(1) A licensed insurer, reinsurer or HMO shall not, without the prior written approval of the Authority—

- (a) participate in a co-insurance pool; or
- (b) participate in a reinsurance pool, as cedant.

(2) An application for approval under subregulation (1) shall be in writing.

(3) In determining whether to approve an application to participate in a co-insurance or reinsurance pool, the Authority shall consider whether—

- (a) the co-insurance or reinsurance pool is clearly identified;
- (b) adequate retrocession arrangements are in place;
- (c) the business within the reinsurance pool is accounted for separately; and
- (d) the reinsurance pool is adequately capitalised for any inwards reinsurance business.

14. Penalty for breach of mandatory reinsurance placements

An insurer or reinsurer who fails to comply with section 74(1) of the Act relating to mandatory reinsurance placements is liable to a fine not exceeding five hundred currency points.

15. Annual and quarterly reinsurance returns.

(1) Every licensed insurer, reinsurer or HMO licensed under the Act shall, at the end of each calendar year and quarter, submit to the Authority details of the reinsurance or retrocession returns and details of the reinsurers or retrocessionaires with whom they maintain business relations in respect of risks falling within the scope of the Act.

(2) The details required every end of a calendar year shall be submitted within ninety days from the end of the calendar year.

(3) The details required every end of a quarter in a financial year shall be submitted within twenty-one days from the end of the quarter.

(4) The submission referred to in subregulation (1) shall be made using the forms prescribed by the Authority and hosted on the official website of the Authority.

MATIA KASAIJA (M.P)

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