

THE INSURANCE REGULATORY AUTHORITY



**THE CODE OF CONDUCT AND ETHICS FOR INSURANCE REGULATORY
AUTHORITY**

Revised 2016

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FOREWORD BY THE CHAIRMAN

As the Chairman of the Board, I am pleased to present to you this Code of Conduct and Ethics for the Authority. This Code is for employees and Members of the Board of Insurance Regulatory Authority pursuant to section 37 and 38 of Leadership and Integrity Act as read together with section 52 of the said Act. Its purpose is to give effect to Chapter Six of the Constitution of Kenya, 2010. The Code is intended to establish the standards of integrity and ethical conduct among Members of the Board and employees of the Authority and to ensure that they respect the values, principles and requirements of the Constitution in discharge of their duties.

This Code contains general rules of conduct and ethics to be observed by the Members of the Board and employees of the Authority so as to maintain the integrity, dignity and nobility of the Authority. This code is not intended to replace the terms and condition of service of individual members of the Board and employees, and is to be applied consistently with the Constitution, the Leadership and Integrity Act, No. 19 of 2012, the Public Officer Ethics Act, the Insurance Act and other legislation. Members of the Board and employees of the Authority shall adhere to this Code both in their public and private lives so as not to bring disrepute to the Authority.

ABDIRAHIN H. ABDI

CHAIRMAN

BOARD OF DIRECTORS

FOREWORD BY THE CHIEF EXECUTIVE OFFICER

It is my pleasure as the Chairman of the Corruption Prevention Committee and as the Chief Executive Officer of the Authority to welcome the presentation of this Code for implementation. This demonstrates our commitment to abide by ethical standards espoused in Chapter Six of the Constitution, the Leadership and Integrity Act and the Public Officer Ethics Act. The Authority shall endeavour to implement this code as it discharges its mandate. The code shall also direct the operations of the Authority in their interaction with the regulated entities and the stakeholders in the insurance industry.

SAMMY MAKOVE

COMMISSIONER OF INSURANCE/CHIEF EXECUTIVE OFFICER

PART I – PRELIMINARY

1. Citation

This Code may be cited as the Code of Conduct and Ethics for the Insurance Regulatory Authority.

2. Terms and Definitions

In this Code, unless the context requires-

“Act” means Leadership and Integrity Act, 19 of 2012.

“Authority” means the Insurance Regulatory Authority.

“A member of the Board” means a person appointed under section 3B of the Insurance Act.

“Chief Executive Officer” means the Chief Executive Officer of the Authority.

“Employee” means any person engaged by the Authority in an employment contract and shall include but not limited to those engaged on permanent, contract, casual or temporary basis.

“Regulated Entity” means all entities regulated by the Authority includes Insurance Companies, Reinsurance Companies, Brokers, Agents, Medical Insurance Provider, Risk Managers, Loss Adjusters, Motor Assessors, Insurance Investigators, Surveyors and Claims Settling Agents.

3. Application of Code

This Code applies to all employees and Members of Board of the Authority. The Code focuses on ethical conduct and integrity at the Authority.

PART II - REQUIREMENTS

4. Application of the General Code

All Members of the Board and employees of the Authority shall comply with all the requirements of the General Code of Conduct and Ethics set out the Appendix I to this Code.

5. Integrity and Impartiality

5.1. Integrity is a core value of the Code of Conduct and Ethics. The Employees of the Authority shall have a duty to adhere to high standards of behavior

in the course of their work and mandate in regulating the insurance industry. In order to sustain public confidence, the conduct of employees shall be above reproach. The employees have a duty maintain professional standards in the discharge of their duties.

- 5.2. An employee shall deal with all persons with impartiality and shall not discriminate any person in the course of their duty on the basis of race, ethnicity, sex, political opinion, disability, religion or culture.

6. Professionalism and Courtesy

- 6.1. A member of the Board or an employee shall have a duty to conduct themselves in a professional manner at all times and to apply high professional standards in carrying out their work including promotion and application of the best practices and procedures.
- 6.2. A member of the Board or an employee who is a professional shall be bound by and observe the professional code of conduct he she might be required to subscribe to.
- 6.3. An employee of the Authority shall at all times treat their colleagues and members of the public with Courtesy.

7. Management of Resources

An employee and a member of the Board shall ensure that all resources of the Authority under their charge are properly utilized and fully accounted for.

8. Gifts

- 8.1. A member of the Board or an employee shall not accept any gifts from any regulated entity and suppliers.
- 8.2. A member of the Board or an employee shall ensure no members of his/her family solicits or accepts any gifts ,money, hospitality, free passage or favours from any person or organization that might reasonably be thought to influence or be intended to influence the in discharging his official duties and responsibilities.
- 8.3. A gift in kind may be received by a member of the Board or an employee of the Authority in an official capacity as a usual expression of courtesy or protocol and within the conventional standard of hospitality. Such gift received shall be the gift to the Authority and shall be handed over to the Chief Executive Officer of the Authority who shall decide how the gift is to be disposed of.

9. Gift Register

The Authority shall keep a gift register as provided by statute. The register will capture gifts to employees and members of the Board of the Authority and Gifts issued by the Authority to other persons and entities.

10. Disposal of Gifts

An gift received by a member of the Board or an employee shall be reported to the Chief Executive Officer who shall disposed in accordance with Public Procurement and Disposal Act or where it is to be utilized by the Authority as shall be as directed by the Chief Executive officer.

11. Conflict of Interest

11.1. A member of the Board or an employee shall ensure that he does not subordinate his official duties to his private interest or put himself in a position where there is conflict between his official duties and his private interests.

11.2. Where there is a potential conflict of interest during the performance of official duty, it shall be the obligation of the one likely to have such a conflict declare such interest and take action to avoid such a conflict.

12. Participation in Tenders

A member of the Board or an employee shall not, in his or her private capacity, participate in a tender for the supply of goods or services to the Authority.

13. Conduct of Private Affairs

A member of the Board or an employee shall conduct his private affairs in a manner that it gives honour to the Authority.

14. Contesting Political Office

An officer who wishes to contest a seat in the Parliament or any other political office shall be required to resign his office in the Authority within the time prescribed by Political Parties Act or by any other relevant law or statute.

15. Bank Accounts outside Kenya

A member of the Board or an employee of the Authority shall not maintain a bank account outside Kenya except with the approval of the Ethics and Anti-Corruption Commission or in accordance with any written law.

16. Duty of Disclosure

An employee of the Authority shall have an obligation to disclose to the Chief Executive Officer and immediate supervisor of any violation of this Code of Conduct while a member of the Board shall disclose to the Board Chair of any breach.

17. Disciplinary Action

An employee who breaches this code shall be subject to disciplinary actions based on Authority's Human Resource Disciplinary procedure while a member of the Board shall who breaches this code shall be recommended for any action to the Cabinet Secretary for the time being responsible for National Treasury.

18. Protection of Whistle Blowers

The Authority will ensure protection of the identity and safety of persons making corruption disclosure to the Authority.

19. Appendix

The general Code of Conduct provided in Part II of the Leadership and Integrity Act is hereby attached in the Appendix 1 and forms part of this Code.

20. Signing of the Code

All members of the Board and employees of the Authority shall be required to sign a commitment to the code as provided for in Appendix 2.

APPENDIX 1

PART III – GENERAL CODE OF CONDUCT AND ETHICS

1. Parts Setting Out the General Code

This part sets out a General Code of Conduct and Ethics for Public officers.

2. Performance of Duties, General

A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

3. Professionalism

A public officer shall–

- (a) carry out his/her duties in way that maintains public confidence in the integrity of his/her office;
- (b) Treat the public and his fellow public officers with courtesy and respect;
- (c) To the extent appropriate to his office, seek to improve the standards of performance and the level of professionalism in his organization.
- (d) If a member of a professional body, observe the ethical and professional requirements of that body;
- (e) Observe the official working hours and not be absent without proper authorization or reasonable cause;
- (f) Maintain an appropriate standard of dress and personal hygiene;
- (g) Discharge any professional responsibilities in a professional manner.

4. Rule of Law

- (1) The public officer shall carry out his duties in accordance with the law.
- (2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

5. No Improper Enrichment

- (1) A public officer shall not use his office to improperly enrich himself or others.
- (2) Without limiting the generality of subsection (1), a public officer shall not-
 - (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who-
 - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officers duties;
 - (ii) carries on regulated activities with respect to which the public officer's organization has a role; or
 - (iii) has a contractual or similar relationship with the public officers organization;
 - (b) improperly use his officer to acquire land or other property for himself or another person, whether or not the land is paid for; or
 - (c) for personal benefit of himself or another, use of information that is acquired in connection with the public officer's duties and that is not public.
- (3) A public officer may accept a gift given to him in his own official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organization.
- (4) Subsection (2) (a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
- (5) Subsection (2) (c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

6. Conflict of Interest

- (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.
- (2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or

having that interest would result in the public officer's public interests conflicting with his official duties.

- (3) A public officer whose personal interests conflict with his official duties shall-
- (a) declare the personal interests to his superior or other appropriate body and comply with the directions to avoid the conflict; and
 - (b) refrain from participating in any deliberations with respect to the matter.
- (4) Notwithstanding any directions to the contrary under subsection (3) (a), a public officer shall not award a contract, or influence the award of a contract, to-
- (a) himself/herself;
 - (b) a spouse or relative;
 - (c) a business associate;
 - (d) a corporation, partnership or other body in which the officer has an interest.
- (5) The regulation may govern when the personal interests of a public officer conflict with his duties for the purpose of this section.
- (6) In this section, "personal interest" includes that of a spouse, relative or business associate.

7. Collections and Harambees

- (1) A public officer shall not-
- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
 - (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.
- (2) In this section, "collection", "collector" and "promoter" have the same meanings as in the section 2 of the Public Collection Act.

8. Acting for Foreigners

(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further interests of a foreign government, organization or individual.

(3) for the purposes of this section –

(c) an individual is a foreign if his not a citizen of Kenya;

(d) an organization is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organizations or individuals.

9. Care of Property

(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

10. Political Neutrality

(1) A public officer shall not, in or in connection with the performance of his duties as such-

(a) act as agent for, or so as to further the interest of, a political party; or

(b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen compromise the political neutrality of his office.

(3) The exception is National Assembly members or Member of County Assembly.

11. Nepotism

A public officer shall not practice nepotism or favouritism.

12. Giving Advice

A public officer who has a duty or give advice shall give honest and impartial advice without fear or favour.

13. Misleading the Public

A public officer shall not knowingly give false or misleading information to members of the public or to any other member of the public.

14. Conduct of Private Affairs

(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

15. Sexual Harassment

(1) A public officer shall not sexually harass a member of public or a fellow public officer.

(2) In subsection (1), “sexually” includes doing any of the following” if the person doing it knows or ought to know that it is unwelcome-

(a) making a request or exerting pressure for sexual activity or favours;

(b) making intentional or caress physical contact that is sexual in nature; and

(c)making gestures, noises, jokes, or comments, including innuendos, regarding another person’s sexuality.

16. Selection, etc, of Public Officer

A public officer shall practice and promote the principle that the public officers shall be-

(a) shall be selected on the basis of integrity, competence and suitability; or

(b) elected in fair elections.

17. Submitting of Declarations, etc

A public officer shall submit any declaration or clarification required under Part IV to submitted or made by him.

18. Acting through Others

(1) A public officer contravenes the Code of Conducts and Ethics if-

(a) he causes anything to be done through another person that would, if the public officer did it, be a contravention the Code of Conducts and Ethics; or

- (b) he allows or directs a person under his supervision or control to do anything that is a contravention the Code of Conducts and Ethics.
- (2) Subsection (1) (b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

19. Reporting Improper Orders

If a public officer considers that anything required of him is a contravention the Code of Conducts and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

APPENDIX 2

I. COMMITMENT FORM FOR STAFF

Name of the Employee:

Employee Number:

Department:

Job Title:

I hereby affirm that I have read, understood, and agree to adhere to the Code of Conduct and further affirm that I will comply fully to the extent that it is written during my employment.

Signature.....

Date.....

II. COMMITMENT FORM FOR BOARD MEMBER

Name of the Board Member:

Chairman

Member

I hereby affirm that I have read, understood, and agree to adhere to the Code of Conduct and further affirm that I will comply fully to the extent that it is written during my tenure as a member of the Board.

Signature.....

Date.....