



**IRA/PG/XX**

# **GUIDELINE ON REGISTRATION OF INSURANCE AGENTS**

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**November 2015**

To: All Insurance Companies

**GUIDELINE ON REGISTRATION OF INSURANCE AGENTS**

This guideline on registration of insurance agents and is issued pursuant to section 3A of the Insurance Act for observance by insurance companies and insurance agents.

The guideline sets out the requirements and conditions to be met when registering as an agent.

It is worth noting that agents play an important role in the distribution of insurance products and a high level of professionalism needs to be maintained.

To this end, the Insurance Regulatory Authority issues this guideline on the registration of insurance agents to be effective from 1st October, 2015.

**SAMMY M. MAKOVE**

**COMMISSIONER OF INSURANCE & CHIEF EXECUTIVE OFFICER**

## **THE INSURANCE ACT (CAP 487)**

### **IRA/PG/XX**

## **GUIDELINE TO THE INSURANCE INDUSTRY**

### **Registration of Insurance Agents**

#### **Table of Contents**

1.0 AUTHORIZATION .....	4
2.0 INTRODUCTION .....	4
3.0 Transaction of Business by Insurance Agents.....	4
4.0 APPLICATION FOR REGISTRATION.....	5
4.1 Application for Insurance Agent's licence.....	5
4.2 Operations of an Agent .....	5
5.0 Responsibilities of Insurer .....	6
6.0 Responsibilities of an Insurance Agent .....	6
7.0 ENFORCEMENT MEASURES .....	8
7.1 Corrective measures .....	8
7.2 Revocation and Suspension of Licence .....	8
8.0 ENQUIRY.....	9

## 1.0 AUTHORIZATION

**IN EXERCISE** of the powers conferred by sections 3A (a), (b) and (g) of the Insurance Act, the Insurance Regulatory Authority (herein referred to as Authority) issues the guideline set out here below, for observance by all insurers and agents registered under the Insurance Act Cap 487, in respect registration of agents.

## 2.0 INTRODUCTION

The Insurance Act was amended via Finance Act, No. 14 of 2015 by deleting the requirement of registration of Agents in respect to provision of documents under the hand of a principal officer certifying the appointment as an agent of the insurer and that the insurer is satisfied that the person appointed has knowledge and experience necessary to act as an agent. This amendment was meant to simplify the registration of agents and to allow those who are academically qualified to be registered as agents. The amendment further required that those who are registered prior to transacting insurance business will be required to obtain the appointment of the insurer.

The Guidelines herein are therefore made pursuant to these amendments and are meant to provide orderly operation of the Insurance Agents. As the Authority provides the mechanism of ease of doing business by the agents, it's also keen in its mandate to protect the prospects as well as policyholders and their beneficiaries that may come in contact with these agents. These guidelines therefore provides the necessary protection to the insuring public as well as governing the operations of the agents and defining their relationship with the insurers.

## 3.0 Transaction of Business by Insurance Agents

3.1. An insurance agent shall only transact business as an agent under the following conditions;

- a) is registered by the Authority as an insurance agent for the year; and
- b) has a written contract with the Insurer authorizing the agent to transact specific classes of business;

3.2 An insurer shall only enter into contract with an agent who is duly registered by the Authority for the year under consideration.

3.3 Where the agency is a corporate entity, the principal officer shall be a qualified and approved by the Authority.

3.4 Where the Authority is of the opinion that based on the nature of products to be sold by the Agent, there is no need for qualification as an agent, the Authority may authorize a person to be licensed without the set qualifications.

3.5A Principal Officer shall not work for more than one Agent.

3.6A director or employee of an Agent shall not be an employee of any other agency, broker or insurer.

## **4.0 APPLICATION FOR REGISTRATION**

### **4.1 Application for Insurance Agent's licence**

4.1.1 An application for insurance agent's registration shall be submitted to the Authority in the prescribed form and shall include all supporting documents and the applicable fee. The applicant shall provide such additional information as the Authority may require.

4.1.2. In making a decision, the Authority will either;

- (i) grant a licence or approval; and
- (ii) inform the applicant of its reason for rejecting the application.

### **4.2 Operations of an Agent**

4.2.1. An Agent shall represent the insurer with whom they have an Agency Agreement.

4.2.2. Where the Agent ceases to represent an insurer, the Agent and the insurer shall within 7 days notify the Authority with reasons for termination.

4.2.3. The Agent shall comply with the Insurance Act, this Guideline, the Fit and Proper Criteria (contained in Appendix A), all other prudential requirements and other guidelines issued by the Authority from time to time.

4.2.4. The Authority may impose additional conditions on the operations of an Agency as the Authority may think fit.

4.2.5. An insurer shall, within 7 days, notify the Authority in writing whenever there are any change in the Agent's particulars provided to the Authority;

## 5.0 Responsibilities of Insurer

- 5.1. An insurer shall establish and maintain an effective agency management system to manage the activities of its Agents.
- 5.2. An insurer shall maintain a register containing the names, license number, addresses, principal officer, business transacted and such other particulars as may be required by the Authority for its Agents.
- 5.3. The insurer shall submit a return on their agents to the Authority in a prescribed format.
- 5.4. An insurer shall provide to each of its insurance Agents, sufficient training where a person receiving such training at a minimum;
  - (a) shall be familiar with the requirements of the Insurance Act and Guidelines; and
  - (b) be able to competently undertake the duties of an insurance Agent
- 5.5. The Agency Agreement shall stipulate the obligations and responsibilities of the Agent and the insurer.
- 5.6. Insurer shall be responsible for;
  - (a) all actions of its Agents in relation to agency services provided by the Agent under the Agency Agreement; and
  - (b) any misconduct of its Agents.
- 5.7. Insurers shall not allow the Agents to collect premium in cash.

## 6.0 Responsibilities of an Insurance Agent

- 6.1. An Agent shall have a Principal Officer at all times. Where applicable, if the position of the Principal Officer falls vacant, the Agent shall inform the Authority within 7 days and fill the vacancy within 30 days or such time as may be determined by the Authority.
- 6.2. An Agent shall ensure that any person acting as the Principal Officer;
  - (a) is a full time employee of the Agent;
  - (b) conducts day to day running of the agency;
  - (c) does not act at any one time for more than one insurance Agent;
  - (d) meets the Fit and Proper Criteria;
  - (e) is approved by the Authority; and
  - (f) complies with this guideline.
- 6.3. An Agent acting on behalf of insurer shall;
  - (a) identify himself as an insurance agent acting on behalf of the insurer;
  - (b) disclose his registration number if so requested and identify his registration number on his business card;

- (c) ensure that the product proposed is suitable to the needs and resources of the prospective policy holder as disclosed to the insurance agent;
- (d) give advice only on those matters in which he is competent to deal with or otherwise seek advice from his insurer;
- (e) explain the cover afforded by each product recommended to ensure that the prospective policy holder understands what he is buying;
- (f) explain the specific differences to which he is referring when making comparisons with other types of products or forms of investment;
- (g) treat all information supplied by the prospective policy holder as confidential and disclose such information only to the insurer to which the business is being offered;
- (h) not make inaccurate or misleading statements about any insurer or their products, or any other intermediaries;
- (i) give a breakdown of premium and statutory charges payable by the policy holder; and
- (j) not pay part of its commission or discount allowed to the Agent to any director or employee of any insured as an inducement to place the business with the insurer.

6.4. In assisting a prospective policy holder to complete the proposal or application form, an agent shall:-

- (a) not unduly influence the prospective policy holder, and make it clear that the answers or statements given are the latter's own responsibility; and
- (b) explain the consequences of fraud, non-disclosure and inaccuracies to the prospective policy holder and draw his attention to the relevant statements in the proposal form.

6.6 In addition to the above responsibilities an Agent for life insurance shall:-

- (a) explain the long term nature of the policy and the consequences of early discontinuance or surrender;
- (b) where a policy offers participation in profits, or is investment-linked, explain the specific difference between guaranteed and projected benefits;
- (c) where projected benefits are illustrated, explain the assumptions on which the illustrations are based, including any future bonus or dividend declaration, and that projected benefits are not guaranteed;
- (d) in the case of participating (with-profit) business, explain that any bonuses or dividends declared in the future may be lower or higher than those currently quoted and that past performance may not be a guide to future performance;
- (e) in the case of linked long term business, explain that unit value and the value of the policy holder's benefits may fluctuate;
- (f) unless specifically authorised by an insurer, use only such sales proposals and illustrative figures that are supplied by the insurer and shall use the whole illustration in respect of the policy being

- discussed, and no other, and shall not add to it or select only the most favourable aspects of it; and
- (g) if authorised by an insurer to prepare certain illustrations himself, prepare them using only the assumptions authorised by the insurer.

6.7. An Agent for takaful shall:

- (a) explain the operations of takaful especially the operating model and the underlying sharia principles;
- (b) be able to explain the details on surplus distribution including the effect of qard Hassan;
- (c) be able to explain exclusions (haram) from a sharia perspective;
- (d) in the case of family takaful, explain the long term nature of the certificate and the consequences of early discontinuance or surrender;
- (e) explain the duties, responsibilities and remuneration of a takaful operator;
- (f) be able to explain the role played by Sharia Supervisory Council

## 7.0 ENFORCEMENT MEASURES

### 7.1 Corrective measures

If an Agent or a Principal Officer or an insurer violates or fails to comply with any provision of these guidelines, the Authority may take any one or more of the following corrective measures.

- (a) send a written warning to the party;
- (b) give directives to the party to cease and desist from particular actions, or requiring the party to take action to correct the violations;
- (c) direct the party to cease some or all of its operations; or
- (d) impose a charge or administrative penalty.

### 7.2 Revocation and Suspension of Licence

The Authority may revoke a licence granted to an Agent or cancel approval of a Principal Officer if:-

- (a) satisfied that the person has obtained the licence or approval by any false, incorrect or misleading statement.
- (b) the Agent fails to comply with any condition of licensing.
- (c) the Agent fails to comply with the Insurance Act, regulations or guidelines issued under the Act.
- (d) the Agent where applicable, has been convicted of a criminal offence involving fraud, misrepresentation or dishonesty.
- (e) the Agent does not have any valid Agency Agreement with any insurer.
- (f) the Agent does not have a Principal Officer for more than 30 days.



## 8.0 ENQUIRY

Enquiries on any aspect of this guideline shall be referred to;

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P.O. Box 43505-00100,

Nairobi

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## APPENDIX A

### FIT AND PROPER CRITERIA

1. An applicant for insurance Agent licence or Principal Officer Authorization, or an Agent and Principal Officers shall, at all time, be fit and proper.
2. The Insurer is responsible to ensure that its Agents and Agents' Principal Officers are at all time fit and proper in accordance with these Guidelines.
3. The Agent is responsible to ensure that the Principal Officers are at all times fit and proper in accordance with these Guidelines.
4. An applicant or an Agent or a Principal Officer must satisfy the following conditions and requirements:
  - (a) must not be convicted of criminal offence involving fraud, misrepresentation or dishonesty;
  - (b) must not have had a civil liability for fraud or misrepresentation under any law;
  - (c) must not have been disqualified or suspended by a competent Authority from practicing a profession on grounds of professional misconduct;
  - (d) must have sufficient competency, in terms of relevant experience and academic qualifications, to reasonably conclude that he will be able to discharge satisfactorily his duties and responsibilities;
  - (e) an applicant or Agent which is a legal entity, must not be the subject of a winding up order or must not be an entity in respect of which a receiver has been appointed whether by a court or otherwise;
  - (f) must not be an un-discharged bankrupt; and
  - (g) must comply with the Insurance Act or these Guidelines or any other prudential requirements and other guidance issued by the Authority from time to time.
5. The Directors and major shareholders of an Agent must satisfy the conditions provided in paragraph 4 above.
6. In addition to the requirements listed above, an applicant or insurance Agent who is natural person or Principal Officer must be professionally qualified or approved by the Authority to act as an agent.
7. Authority may consider a person not to be fit and proper to act or continue acting as an insurance Agent or a Principal Officer if, in the opinion of Authority, by his words or actions, he has manifested a material lack of understanding of the duties and ethical responsibilities of an insurance agent or a Principal Officer.