

LEGAL NOTICE NO. 24

THE INSURANCE ACT

(Cap. 487)

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THE INSURANCE (BANCASSURANCE) REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 180 of the Insurance Act, the Cabinet Secretary for the National Treasury and Planning makes the following regulations—

1. These guidelines may be cited as the Insurance (Bancassurance) Regulations, 2020.

Citation.

2. In these regulations, unless the context requires—

Interpretation.

“bancassurance business” means an intermediary business that involves collaboration between a bank, a microfinance bank or a financial institution, and an insurance company to market and distribute insurance products;

“bancassurance intermediary” means a person registered to carry out bancassurance business; and

“microfinance bank” has the meaning assigned to it in the Microfinance Act, 1996.

No. 19 of 1996.

3. These regulations shall apply to bancassurance intermediaries.

Scope of the regulations.

4. The objective of these regulations is to provide for the registration of bancassurance intermediaries and supervision of bancassurance business.

Objective of the regulations.

5. A person who intends to carry on Bancassurance business shall—

Application for bancassurance business.

- (a) be incorporated in Kenya;
- (b) wholly owned by a bank, microfinance bank or other financial institution regulated in Kenya;
- (c) apply in writing to the Authority to be registered as a bancassurance intermediary;
- (d) have a minimum paid up capital of five million shillings;
- (e) have at all times a minimum of ten million shillings in the form of—
 - (i) a bank guarantee as set out in the First Schedule hereto:
Provided that the bank, microfinance bank or financial institution owning the applicant shall not provide the guarantee; or
 - (ii) a Government bond with a maturity of at least two years issued by the Central Bank of Kenya in favour of the Authority; and
- (f) meet any other requirements that may be prescribed by the Act or these regulations.

6. An application for registration as a bancassurance intermediary shall be accompanied by—
- Registration requirements.
- (a) an application fee of twenty thousand shillings;
 - (b) a collaboration agreement with any insurer whose products the applicant intends to market or distribute;
 - (c) a bancassurance business plan;
 - (d) a letter of no objection from the regulator of the bank, microfinance bank or financial institution;
 - (e) a written application for approval of the principal officer of the applicant; and
 - (f) constitutive documents including a certificate or registration or certificate of incorporation.
7. (1) A person registered as a bancassurance intermediary shall act as an insurance intermediary and shall not—
- Market conduct by bancassurance intermediaries.
- (a) undertake or engage in the business of the underwriting of risks or engaging in any other insurance business and
 - (b) give the impression of being the underwriter of the insurance products it is marketing or distributing on behalf of the insurer on whose behalf it is acting as a bancassurance intermediary.
- (2) All bancassurance advertisements by the bancassurance intermediary shall prominently display or mention the name of the insurer underwriting the product.
8. A bancassurance intermediary shall ensure that the product is in the name of the underwriter and shall disclose to its customers that the insurer shall be responsible for the settlement of claims relating to the insurance product.
- Insurance products to be in the name of the underwriter.
9. A bancassurance intermediary shall ensure that the bank, microfinance bank or financial institution does not debit the client's bank accounts for premiums without the prior written authority or consent of the operator of the account held at the bank, microfinance bank or financial institution.
- Debiting of client accounts.
10. A bancassurance intermediary shall—
- Role of bancassurance intermediaries.
- (a) inform in writing a customer that the customer has the right to select any underwriter from among the underwriters licensed by the Authority;
 - (b) not advise or coerce a customer to cancel an existing policy from an underwriter licensed by the Authority; and
 - (c) not infringe on the freedom of the customer to use any other bancassurance intermediary of his or her choice or to directly deal with an underwriter.
11. A bancassurance intermediary shall only distribute products approved by the Authority.
- Distribution of products.

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| <p>12. A bancassurance intermediary shall ensure the confidentiality of consumer data and information.</p> | <p>Confidentiality of information.</p> |
| <p>13. A bancassurance intermediary shall develop and implement a complaints redress mechanism to address any complaints from its customers.</p> | <p>Complaints redress mechanism.</p> |
| <p>14. (1) A bancassurance intermediary shall submit to the Authority an annual report on the performance of the bancassurance business activities in the form set out in the Second Schedule hereto</p> <p>(2) The report under paragraph (1) shall be submitted within three months after the end of the year to which it relates.</p> | <p>Reporting requirements.</p> |
| <p>15. A bancassurance intermediary shall ensure that technical staff handling insurance matters possess at least a certificate of proficiency in insurance.</p> | <p>Technical staff.</p> |
| <p>16. A Principal Officer of a bancassurance intermediary shall—</p> <p>(a) be fit and proper as prescribed by the Act;</p> <p>(b) hold a technical or professional qualification in insurance, actuarial, accounting, banking or such other qualification as may be prescribed by the Commissioner; and</p> <p>(c) be approved by the Commissioner.</p> | <p>Qualifications of principal officer.</p> |
| <p>17. A bancassurance intermediary shall have a board of directors of at least three members possessing diverse qualifications and skills who shall oversee its operation.</p> | <p>Governance of a bancassurance intermediary.</p> |
| <p>18. The principal officer of a bancassurance intermediary shall report to the board of directors of the bancassurance intermediary and shall be an <i>ex officio</i> member of the board without the right to vote during the meetings of the board.</p> | <p>Reporting by principal officers.</p> |
| <p>19. A bancassurance intermediary shall not be registered or have its registration renewed if—</p> <p>(a) the applicant or any of its directors has, within a period of five years preceding the date of the application, been convicted of an offence involving fraud or dishonesty;</p> <p>(b) the applicant or any of its directors has, within a period of five years preceding the date of the application become insolvent or compounded with its creditors;</p> <p>(c) the principal officer or the applicant's staff do not have sufficient knowledge, skill or experience to satisfactorily discharge their functions; or</p> <p>(d) the applicant or any of its directors has been found convicted of, or warned or cautioned in writing by the Commissioner on at least three occasions with regard to, unethical business practices.</p> | <p>Disqualification or cancellation of registration.</p> |

20. Where a bancassurance intermediary breaches any provision of these regulations, the bancassurance intermediary shall be liable to a penalty of twenty thousand shillings for each day or part thereof during which the violation continues, which shall be payable to the Policyholders Compensation Fund.

Penalty for violation.

21. A bancassurance intermediary in operation immediately before the commencement of these regulations shall comply with the requirements of regulations 5, 7 and 17 within one year from the date of such commencement.

Transitional matters.

FIRST SCHEDULE

(r. 5 (e))

FORM OF GUARANTEE

1.
(Name of Bank)

in this Guarantee referred to as "the Bank" hereby guarantees to the Commissioner of Insurance (in this Guarantee referred to as the Commissioner) that in the event of any insurance client of

.....
(Name of the Bancassurance Intermediary)

this guarantee (referred to as the Bancassurance) or any insurance company obtaining, while this Guarantee is in force, a court decree in respect of unsatisfied debts of the Bancassurance to the insurance client or the insurance company, as the case may be, in respect of insurance business, which debt the client or the insurance company is unable to recover in any other way, the Bank will pay on demand to the order of the Commissioner the sum of

.....
(Amount of guarantee)

2. This Guarantee is a continuing Guarantee and may be revoked —

- (a) with the consent in writing of the Commissioner; or
- (b) after the expiration of twelve months after notice in writing of the intention of the Bank to revoke this Guarantee has been given to the Commissioner.

3. The revocation of this Guarantee does not release the Bank from, or affect, any liability of the Bank under this Guarantee existing immediately before the revocation.

Dated the.....20 ...

THE SEAL OF WAS AFFIXED
TO THIS GUARANTEE BY
IN THE PRESENCE OF

SECOND SCHEDULE

(r. 14(1))

STATEMENT OF BUSINESS OF A BANCASSURANCE INTERMEDIARY

Name of Bancassurance Intermediary

All amounts in Kenya
Shillings
Year ending 31st
December, 20....

Insurance Business	Number Insurers (1)	Number policies (2)	Total commission earned (3)	Total premium under the policies placed (4)	Largest percentage commission from any one insurer (5)
Long-Term Direct					
TOTAL					
General Insurance-Direct					
TOTAL					
TOTAL					

Date

Dated the 7th February, 2020.

Principal Officer

UKUR YATANI,
Cabinet Secretary,
for National Treasury and Planning.

EXPLANATORY MEMORANDUM
BANCASSURANCE REGULATIONS, 2020

PART I

Name of Statutory Instrument:	Bancassurance Regulations, 2020
Name of the Parent Act:	The Insurance Act, (Cap. 487)
Enacted Pursuant to:	Section 180 of the Insurance Act
Name of the Ministry/Department:	The National Treasury and Planning
Gazetted on:	28 th February, 2020
Tabled on:	

PART II

1. Purpose of Statutory Instrument

The Authority recognizes the need to increase insurance penetration of insurance services in the Country through the use of alternative distribution channels such as financial institutions licensed by the Central Bank of Kenya. These financial institutions have a wide branch network and customer base which can be harnessed to promote accessibility of insurance services and therefore deepen insurance penetration.

In October 2013, the Central Bank of Kenya issued the Guideline on Incidental Business Activities (CBK/PG/23). This made it possible for Banks to form partnerships with one or more financial service providers for purposes of cross-selling authorized financial services and products through their branch network.

The collaboration between Banks and insurance companies to distribute or cross-sell insurance products, commonly referred to as “Bancassurance”, will provide a one-stop-shop platform whereby customers can access insurance services among other financial solutions.

The purpose of this statutory instrument is to provide a framework for the registration and supervision of bancassurance business in Kenya.

2. Legislative Context

The Insurance Act was amended through the Statute Law (Miscellaneous Amendments) Act, No. 11 of 2017 that expanded the objects and functions of the Authority to include regulating the business of bancassurance offered by banks in the same manner as the ordinary insurance business including capital requirements and disclosures.

The Bancassurance Regulations, 2019, are made pursuant to Section 180 of the Insurance Act which empowers the Cabinet Secretary to formulate such rules and regulations which are necessary for giving effect the Insurance Act.

3. Policy Background

Section 3A (1)(hb) of the Insurance Act requires the Authority to regulate the business of bancassurance offered by banks in the same manner as the ordinary insurance business including capital requirements and disclosures.

These Regulations fulfil this mandate by providing a framework for the registration and supervision of bancassurance business in Kenya. In particular, the Regulations prescribe the capital requirements for a bancassurance intermediary, the role of the intermediary which includes disclosing to the customer that they have a right to select an underwriter from a list of underwriters licensed by the Authority. Also included are confidentiality and reporting requirements.

4. Consultation Outcome

As provided for in Articles 10 and 118 of the Constitution of Kenya, the Insurance Regulatory Authority, consulted the stakeholders and the general public on the effect of the regulations. The responses informed the policy behind the draft regulation.

The following consultations and stakeholder forums were held.

Date	Venue	Workshops / Forums
20/02/2018	Insurance Regulatory Authority's Training Room	Exposure of the regulations to the Authority's staff
23/02/2018	College of Insurance	Stakeholder's Workshop for insurance companies

08/03/2018	Insurance Regulatory Authority's Training Room	Bancassurance Stakeholders.
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The outcome of stakeholder and public consultation was in favour of the issuance of the Regulation.

The Draft Regulation was availed on the Insurance Regulatory Authority website <https://www.ira.go.ke> for public consultation and input received on actreview@ira.go.ke

The Authority will also engage in further stakeholder education and dissemination through both the print and electronic media, and other activities for public awareness, to ensure that all parties are aware of the existence of the Regulations and its effect.

5.0 Impact

5.1 Rights and Freedoms

The coming into effect of these Regulations will have no negative impact on the fundamental Rights and Freedoms of the citizens and residents of Kenya.

The Regulations will ensure penetration and inclusiveness of insurance services to the underserved in the market. This will enhance both the economic and social rights of the people of Kenya.

5.2 The Impact on the Private Sector

The coming into force of the Regulations will have the effect of promoting insurance business and ensuring penetration and wider coverage to the most underserved in the market while maintaining a fair, safe and stable insurance industry.

5.3 The Impact on the Public Sector

The coming into force of the Regulations will allow the public to have access to insurance products through the use of branches of banks, microfinance banks and financial institutions. This will ensure inclusiveness and penetration of in the insurance services aiding in;

1. Enhancing business in the 47 County Governments;

2. Insurance as a tool of financial inclusion to Kenyan citizens;
3. Achievement of Kenya's Vision 2030.

5. Monitoring and Review

The Regulations will come into effect immediately upon publication. The implementation of these Regulations will be monitored through the supervision by Authority.

These Regulations will be reviewed in line with the Authority's periodic assessment of the impact of these Regulations on the insurance industry.

The undersigned can be contacted for queries on the statutory instrument.

6. Contact

Hon. (Amb.) Ukur K. Yatani, EGH

Cabinet Secretary for the National Treasury and Treasury

P.O Box 30007-00100

NAIROBI

9th March, 2020