

**“CIRCULAR LETTER NO.055/2017 (CONDITIONS FOR DEALING WITH FOREIGN REINSURERS AND REINSURANCE BROKERS)”**

**TO: ALL INSURANCE COMPANIES**

**SUBJECT: CONDITIONS FOR DEALING WITH FOREIGN REINSURERS AND REINSURANCE BROKERS ON REINSURANCE MATTERS.**

**ISSUE DATE: 11<sup>TH</sup> DECEMBER 2017**

**STATUS: FINAL VERSION**

1. The Tanzania Insurance Regulatory Authority (“TIRA” or “the Authority”) wishes to revisit the existing requirements relating to reinsurance arrangements for insurance companies registered to transact insurance business in the United Republic of Tanzania (herein after referred to simply as “insurers”), pursuant to Section 31(2) of the Insurance Act 2009 as well as Part VII (Mandatory Reinsurance Cessions) of the Act.
2. Section 31(2) of the Insurance Act 2009 provides that *“The carrying on of all arrangements for reinsurance and the insurance business shall be subject to the control of the Commissioner”*.
3. The Authority has observed, with great concern, abuses of reinsurance arrangements by some insurance companies including in respect of, but not limited to, the following aspects:
  - (i) Excessive use of International Facultative Reinsurance Arrangements even in situations and cases which could safely be accommodated under Treaty Reinsurance Arrangements;
  - (ii) 100% externalization (fronting) of risks which could partly be retained locally;
  - (iii) Fronting of extremely low value risks with low sum insured resulting into very low premium payable and extremely low premium levy to TIRA which is not worth TIRA’s review and approval effort;
  - (iv) Poor involvement of local insurance companies in participating in assuming parts of risks intended to be externalized through co-insurance arrangements;
  - (v) A tendency by some insurers in the market to engage in co-insurance arrangements with sister or parent companies based in other jurisdictions;

- (vi) Collusions amongst local insurers whereby all or most of the insurers invited to participate in assumption of portions of certain risks would indicate their inability to participate;
  - (vii) Dealing with poorly rated or unrated foreign reinsurers;
  - (viii) Dealing with un-accredited reinsurance companies and reinsurance brokers (whose legal and financial standing is unknown);
  - (ix) Concealing of ultimate destination of reinsurance premium payments through the use of reinsurance brokers or a series of reinsurance brokers;
  - (x) Seeking externalization of risks whose validity period has expired or significant time has lapsed since commencement of cover; and
  - (xi) Non-disclosure of reinsurance commission/ fronting fee payable to the local insurer.
4. The main objective of this Circular Letter is **to enhance enforcement of requirements of Section 31(2) as well as Part VII of the Insurance Act** by ensuring that insurers conduct themselves appropriately in reinsurance arrangements and transactions. **This Circular Letter therefore serves to require the following:**
5. **All foreign reinsurance arrangements must have a prior approval** of the Authority before implementation by insurers. In this regard all draft reinsurance treaties must be submitted to the Authority not later than 30<sup>th</sup> September of each year for review and approval.
6. **Externalization of risks at 100% (fronting) is prohibited**, except for exceptional circumstances:
- (i) An insurer must retain an **amount equivalent to 5% or more of its shareholders' fund in respect** of each risk it seeks to externalize;
  - (ii) Where 100% fronting is inevitable, the risk must be channeled through a locally registered reinsurance company;
7. **Irregular bundling and repackaging of risks with the intention of complicating risk exposure and promoting unnecessary externalization is prohibited.** Insurers are notified that irregular bundling and repackaging of risks which complicate the covers thus leading to unnecessary externalization of risks is a serious offence punishable by law.
8. **Formation of insurance pools:** For purposes of enhancing market retention, underwriters in the market shall form insurance pools for risks that will be classified by insurers' association and approved by the Authority as large and complex risks.
9. **Except for exceptional situations to be determined by the Commissioner of Insurance, Insurers facing solvency margin deficiencies will not be allowed to externalize insurance risks on facultative basis.** Solvency deficiency qualifies an insurer to de-registration or limitation of its business scope. This exposes policyholders to risk of absence of a valid insurance cover.

10. **Use of a diversified list of reinsurers:** Insurers must ensure that there is a reasonable diversification of reinsurers being used by the insurance company.
11. **Use of well rated reinsurers:** The reinsurers used by the insurance company must be financially sound and have ratings of B+ or better (or equivalent) from an independent reputable rating agency.
12. **Use of Locally Registered Insurance and/or Reinsurance Brokers:**
- (i) An insurer seeking to externalize an insurance risk must endeavor to use the services of locally registered insurance brokers to the extent of intermediation between the insured and insurer<sup>1</sup>;
  - (ii) An insurer seeking to externalize an insurance risk must endeavor to use the services of locally registered reinsurance brokers for intermediation between the Tanzanian registered insurer and reinsurers;
  - (iii) Services of foreign reinsurance brokers may only be opted in circumstances where locally registered reinsurance brokers are unable or unwilling to serve that purpose, in which case provisions of **Clause 13** below will apply.
13. **Conditions for Use of Locally Accredited Reinsurance Brokers:** All foreign reinsurance brokers seeking to transact insurance business with Tanzanian registered insurers **must earn an Accreditation Clearance Letter from TIRA** which will be issued to successful applicants upon:
- a) Making a formal application to TIRA for acceptance as an accredited reinsurance broker;
  - b) Providing documentary evidences on the following:
    - (i) incorporation in home jurisdiction;
    - (ii) status of regulation by a regulatory agency in home jurisdiction;
    - (iii) audited financial statements for the previous 3 years;
    - (iv) any other relevant information; and
  - c) Payment of an annual accreditation fee amounting to US\$ 5,000/=.
14. **Conditions for Use of Locally Accredited Reinsurers<sup>2</sup>:** All foreign reinsurers seeking to transact insurance business with Tanzanian registered insurers **must earn an Accreditation Clearance Letter from TIRA** which will be issued to successful applicants upon:
- a) Making a formal application to TIRA for acceptance as an accredited reinsurer;
  - b) Providing documentary evidences on the following:
    - (i) incorporation in home jurisdiction;
    - (ii) status of regulation by a regulatory agency in home jurisdiction;
    - (iii) credit rating by a reputable rating agency;

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<sup>1</sup> Insurance brokers shall not handle reinsurance broking services and vice versa.

<sup>2</sup> The conditions on Clause 14 shall not apply to foreign reinsurers established by statutes, agreements or charters to which the Government of the United Republic of Tanzania is a party or holds stake directly or indirectly through its entities.

- (iv) audited financial statements for the previous 3 years;
  - (v) any other relevant information; and
  - c) Payment of an annual accreditation fee amounting to US\$ 10,000/=.
15. **An insurer must retain a competent reinsurance staff compliment** which is able to administer in a satisfactory manner its reinsurance programs.
16. **Compliance to the regulatory requirements regarding compulsory reinsurance cessions:** The insurer must ensure that requirements of Part VII of the Insurance Act are fully observed.
17. **Minimum levy payable to TIRA on foreign facultative placements:**
- (i) an insurer shall pay to TIRA a levy on each case approved for facultative placement outside the country equal to 3% of applicable gross premium or US\$ 200, whichever is the greater;
  - (ii) **PLUS** 20% of the amount of the applicable fronting fee/ reinsurance commission in excess of 12%.
18. **Exhaustion of Local Capacity before Externalization:**
- (i) An insurer seeking to externalize a risk must demonstrate that all local insurance companies have been invited to participate in assuming parts of risks intended to be externalized;
  - (ii) Documents to be submitted to TIRA (as evidence of exhaustion of local capacity) include the required TIRA forms duly completed from each local insurer.
19. **Co-insurance with sister or parent companies (which are direct insurers) based in other jurisdictions is prohibited:** All co-insurance arrangements must be made with other locally registered insurers.
20. **Collusions amongst insurers in rejecting participation in risks classified as a serious offence punishable under the Insurance Act:** Insurers are notified that collusions amongst themselves leading to unnecessary externalization of risks whereby all or most of the insurers invited to participate in assumption of portions of certain risks would indicate their inability to participate is a serious offence punishable by law.
21. **Mandatory disclosure of reinsurers receiving reinsurance placements from Tanzanian registered insurers:** An insurer shall disclose the identities of reinsurers ultimately receiving reinsurance premium relating to risks placed with them.
22. **Expired risks shall not be externalized:** No insurer shall seek externalization of risks whose validity period has expired or significant time has lapsed since commencement of cover.

23. **Mandatory disclosure of reinsurance commission/ fronting fees payable to Tanzanian registered insurers:** An insurer shall disclose the amount of reinsurance commission/ fronting fees receivable in respect of externalized risks on a case by case basis.
24. **Non-Response to an Invitation to Participate in Insurance of Risks Constitutes a Serious Offence:** Each and every insurer invited by another insurer in the market to participate in absorbing a portion of risk must provide the required response within 5 working days of receipt of relevant invitation. Perpetual non-responses shall constitute a serious offence punishable by Law.
25. **All Tanzania registered insurance companies to be credit rated:** A Tanzanian registered insurer or reinsurer must undergo periodic credit rating by an independent reputable rating agency to establish its financial soundness at least once in every three years.
26. **Long Term Insurance Business to be Locally Placed:**
- (i) No long term business written in Tanzania shall be externalized;
  - (ii) Long term insurers shall endeavour to place locally all long term business written in the country through reinsurance with locally registered reinsurers, co-insurance with other insurers transacting similar classes of business, insurance pools or such similar arrangements.
27. **Circular Effective Date: The provisions of this Circular Letter shall take effect from 1<sup>st</sup> January 2018.**

Thanking you for your continued cooperation and support.

**Dr. Baghayo A. Saqware**  
**COMMISSIONER OF INSURANCE**

**Cc: Chairman, Association of Tanzania Insurers (ATI) – for necessary action;**  
**President, Tanzania Insurance Brokers Association (TIBA) – for noting.**