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LEGAL NOTICE NO. 123 OF 2016

Insurance (Licensing of Insurance Intermediaries) Regulations, 2016

Pursuant to sections 69, 72, 73, 77, 80(1), 82(1) and 134 of the Insurance Act, 2014¹, I,

RETŠELISITSOE MATLANYANE

Governor of the Central Bank of Lesotho, make the following regulations -

Citation and commencement

1. These Regulations may be cited as the Insurance (Licensing of Insurance Intermediaries) Regulations, 2016 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these regulations, all other words used have the same meaning ascribed to them under the Act, and unless the context otherwise requires -

“Act” means the Insurance Act, 2014;

“intermediary services” means any activity including advice, where a key employee or representative -

- (a) administers, keeps in safe custody or maintains information on insurance products;
- (b) collects premiums; or
- (c) receives, submits or processes claims; and

“representative” means a person who is employed or mandated by an insurance intermediary to render advice or intermediary services to clients.

Application

3. These regulations shall apply only to persons licensed under the Act to engage in the provision of insurance intermediary activities.

Purpose

4. The purpose of these Regulations is to make provision for the licensing requirements for Insurance Intermediaries.

Application for a licence

5. (1) An application for a licence -
- (a) as an insurance broker shall be made by completing the forms in Schedule 1; and
 - (b) as an insurance intermediary other than insurance broker shall be made by completing the forms in Schedule 2.

(2) A person wishing to carry on business as an insurance intermediary shall have suitable qualifications and experience in insurance business and the class or classes of insurance business which the person wishes to transact on behalf of an insurer.

(3) An applicant may apply for a licence as an insurance intermediary for one or a combination of the following classes of insurance business:

- (a) long term insurance; and
- (b) short term insurance.

(4) The insurance intermediary shall indicate in the application, the class or classes of insurance business set out in Schedule 1 of the Act.

(5) The applicant shall satisfy the requirements under Section 73 of the Act and the requirements set out in the Insurance (Fit and Proper Requirements for Intermediaries) Regulations, 2016 with respect to each line of insurance business and class or classes of insurance business being applied for.

(6) Upon receipt of the application under sub-regulation (5), the Commissioner may grant a licence if satisfied that the applicant meets all the requirements of these Regulations.

Validity of a licence

6. A licence issued in terms of the Act and these Regulations will be valid for a period of 5 years from the date of issue, subject to provisions of section 14 of the Act and payment of annual licence fee as prescribed by the Commissioner in Schedule 3.

Application for renewal

7. An application for renewal of a licence issued in accordance with the Act and these Regulations shall be made at least three (3) months before the expiry date of the licence and such application shall be submitted in such form as set out in Schedule 1 and 2 respectively.

Appointment of Insurance Intermediaries

8. (1) An insurance intermediary shall not act as an insurance agent, unless appointed as such by the insurer.

(2) An insurer employing, appointing, contracting with or entering an insurance business relationship with an insurance intermediary shall issue to that intermediary a written agreement governing the terms of the appointment, employment, contract or other insurance business relationship entered into by the parties.

(3) An insurer shall file a notice of appointment with the Commissioner within 15 days of entering into a written agreement with an insurance intermediary.

(4) An insurer that terminates the appointment, employment, contract or other insurance business relationship with an insurance intermediary shall notify the Commissioner of such termination within 30 days of the date of termination, giving the reasons for such termination.

(5) If an insurance intermediary's appointment, employment contract or other contractual relationship with the insurer is terminated due to the

misconduct of the insurance intermediary, the insurer shall not reappoint, employ, contract with or enter into a new contractual relationship with such intermediary unless -

- (a) the intermediary has satisfied any conditions placed on his licence by the Commissioner;
- (b) all outstanding business of the insurance intermediary has been concluded;
- (c) all complaints or legal proceedings submitted by any party against the individual, insurer, insurance intermediary and the Commissioner have been lawfully resolved or concluded, whether the individual was directly or indirectly involved; and
- (d) all fit and proper requirements issued by the Commissioner and all applicable Regulations are complied with.

Conduct of Insurance Business by Insurance Intermediaries

9. (1) An insurance intermediary shall comply with the codes of good practice issued by the Commissioner with respect to the conduct of business by insurance intermediary.

(2) An employee or agent of an insurance intermediary who solicits or negotiate insurance business on behalf of an insured or prospective insured shall be deemed a key employee or representative of the insurance intermediary and shall satisfy all the requirements of a key employee or representative, including the fit and proper requirements issued by the Commissioner.

(3) An insurance intermediary shall be liable for the acts or omissions of his employees, agents and employees of such agents where the act or omission complained of falls within the area of authority of the employee or agent as explicitly stated in his employment, appointment or contract or might reasonably be implied from it by a person seeking insurance.

(4) An insurance intermediary shall not cause a client to agree to a disclaimer absolving the insurance intermediary from his responsibilities mentioned in subregulation (3) above.

(5) All premiums paid to an employee of an insurance intermediary, agent or an employee of such agent shall be deemed to have been paid to the insurance intermediary upon receipt.

Maintenance of Professional Indemnity Policy by Insurance Brokers

10. (1) An insurance broker shall have and maintain professional indemnity policy coverage in the amount of -

(a) M1,000,000; or

(b) fifty percent of his or her brokerage income from insurance commission during his or her last preceding financial year.

(2) An insurance broker shall review his or her professional indemnity policy annually to ensure that the required policy coverage meets the amount prescribed in subregulation (1).

(3) An insurance broker shall not alter or attempt to alter the policy coverage without written approval of the Commissioner.

(4) Proof of professional indemnity coverage shall be provided to the Commissioner on an annual basis.

Collection of Premiums by Insurance Intermediaries

11. (1) An insurance intermediary shall not receive, collect, hold or in any way deal with a premium payable under an insurance policy entered into or to be entered into unless it is pursuant to a written agreement with an insurer.

(2) An insurance intermediary authorised by an insurer to receive, collect, hold, or in any way deal with premium payable under an insurance policy, shall not delegate such authority to another person.

(3) Where a premium is received by an insurance intermediary, the insurance intermediary shall pay to the insurer an amount equal to the premium to be paid, less any consideration payable by the insurer for services rendered.

(4) All premiums collected by an insurance intermediary from a pol-

icyholder shall be held by the insurance intermediary in a fiduciary capacity.

(5) The premiums collected under sub-regulation (4) shall be remitted to the insurer or deposited into a separate trust bank account designated for policyholder funds within one business day of receipt.

(6) An insurance intermediary shall keep adequate records of receipt of funds and pay such funds as contemplated in sub-regulation (5) to the insurer within 30 days of receipt of the funds and shall simultaneously furnish the insurer with a statement containing detailed particulars of all such payments made.

(7) Payment of a premium by a policyholder to an insurance intermediary authorised by the insurer to receive, collect, hold or in any way deal with premium payable under a policy, shall be deemed to be specific performance under the policy and the premium shall be deemed to have been received by the insurer on the date payment is made to the insurance intermediary.

(8) Where an insurance intermediary has been authorised to receive, collect, hold or in any way deal with a premium payable under an insurance policy as contemplated in sub regulation (1), the insurer who authorised such insurance intermediary shall be held personally liable for the premiums paid to the insurance intermediary as if those premiums had been paid to an insurer directly.

(9) If an insurance intermediary fails to make a payment as required pursuant to the terms of its written agreement, the insurer concerned shall, within 30 days from the date on which payment was required to be made, notify the Commissioner in writing of such failure.

(10) Failure of an insurance intermediary to remit premiums due to an insurer in accordance with these Regulations shall constitute an offence under section 118 of the Act.

Maintenance of Deposits by Insurance Brokers

12. (1) A person shall not be licensed as an insurance broker unless that person has deposited with a bank in Lesotho a guarantee or other securities approved by the Commissioner, having an aggregate value of not less than M50,000 or such greater amount as may be determined by the Commissioner.

(2) A guarantee deposited under sub-regulation (1) shall not be withdrawn without notification to, and approval from, the Commissioner.

Failure to Comply

13. (1) An insurance intermediary who contravenes or fails to comply with any provision of these Regulations shall be liable to an administrative fine or any other penalty as may be determined by the Commissioner.

(2) The Commissioner may invoke section 118 of the Act in case of any contravention or failure to comply with any provisions of these Regulations.

Transitional provision

14. A person licensed as an insurance intermediary under the Act, shall adjust activities in accordance with the provisions of these Regulations within 6 months from the coming into operation of these Regulations.

DATED:

**DR. RETŠELISITSOE MATLANYANE
GOVERNOR OF THE CENTRAL BANK OF LESOTHO**

NOTE

1. Act No. 12 of 2014

SCHEDULE 1

**APPLICATION FOR LICENCE AS INSURANCE BROKER
(Regulation 5 (1)(a))**

1. An application for new licence or renewal under the Act shall be -
 - (a) in writing;
 - (b) made by the Principal Officer of the Company; and
 - (c) signed by two directors.

2. Indicate whether application is for new license or renewal license

Type of Application **Please Tick below(√)**

New Licence

Renewal License

3. Class of Insurance Brokerage Business for which applicant is applying for:

Class of Business **Please Tick below(√)**

Short Term Insurance

Long Term Insurance

Composite Insurance

4. Fill in the information below:

(1) Name of Insurance Broker

.....

(a) Names and Addresses of Directors

.....
.....
.....
.....

(b) Names and Addresses and Holdings of shareholders

.....
.....
.....
.....

(2) Attach copies of incorporation documents to this application.

(3) Head Office in Lesotho

(a)
.....
.....
.....

(Registered Office)

(b)
.....

(Postal Address)

(c)
.....

(Physical address)

(d)
.....

(Email address)

(e)

(Telephone Number)

(4) A Deposit of M50,000 has been made with

.....
.....
.....

and a Certificate of Confirmation is enclosed.

(5) Details of Professional Indemnity Policy

.....

(a) Name of Insurer

.....
.....

(b) Amount of Indemnity

.....

(c) Date of Commencement of
Cover.....

(d) Date of Expiry of Cover

.....

(e) Premium Payment
Receipt.....

5. Details of Principal Officer

Name

Postal Address

.....
.....
.....

Residential Address

.....

Qualifications.....

.....
.....

.....

Insurance Experience

.....

.....

.....

.....

6. Number of Staff to be Employed at

.....

..... of.....

which are Basotho and are non-Basotho.

7. I hereby declare that the above Particulars and Information are true and correct to the best of my knowledge and am fully conversant with the provisions of the Insurance Act, 2014.

Dated and Signed at this day of

20.....

Witness (1).....

(2).....

Principal Officer

SCHEDULE 2

**APPLICATION FOR A LICENCE AS AN INSURANCE
INTERMEDIARY OTHER THAN INSURANCE BROKERS
(Regulation 5(1)(b))**

1. An application for new license or renewal under the Act shall be in -
 - (a) in writing;
 - (b) made by the Principal Officer of the Company; and
 - (c) signed by two directors.

2. Indicate whether application is for new license or renewal license

Type of Application **Please Tick below (√)**

New Licence

Renewal License

3. I, the undersigned, (name) of

.....
(Postal address)

.....
(Street address)

.....
(Telephone number)

hereby apply for a licence as;

Type of Intermediary **Please tick (√)**

Insurance agent

Of the following insurance company;

..... (name of insurer)

Insurance loss adjuster
Insurance loss assessor
Insurance risk consultant

1. I declare that I
 - (a) have attained the age of 21 years;
 - (b) am resident in Lesotho;
 - (c) hold the following educational qualifications:
 - (i)
 - (ii)
 - (iii)
 - (d) *am accredited agent of the following registered insurers:
 - (i)
 - (ii)
 - (iii)
 - (e) *have been trained for a minimum period of 3 months in insurance business and/or have been appointed an insurance agent prior to the date of commencement of the Insurance Act, 2014;
 - (f) have never been found guilty of a criminal offence involving dishonesty;
 - (g) have never in the course of any judicial proceedings relating to any policy of insurance or the winding up of an insurance company been found guilty of, or have

knowingly participated in or connived at any fraud against an insurer or an insured;

- (h) have never collected insurance premiums under any policy when I was not authorised to do so or procured by fraudulent representations payment of any premium on an insurance policy.
- 2. *I am fully acquainted with the provisions of section 69 the Insurance Act, 2014¹, and regulation 12 made under the aforesaid Act and understand same (only applicable to applications for registration as insurance agents).
- 3. *The investigation and/or licensing fees of are enclosed with this application.
- 4. I declare that the above particulars and the information provided in the enclosures hereto are to the best of my knowledge and belief correct. I further declare that I am aware of and fully conversant with the provisions of section 69 of the Insurance Act, 2014.

Dated and Signed at this day of 20.....

.....
Applicant

Witnesses:

- 1.
- 2.

Note: * = Delete whatever is not applicable.

SCHEDULE 3

**SCHEDULE OF FEES
(Regulation 6)**

Description	Application fee (M)	Annual fee (M)	Renewal fee (M)
Insurance Broker	1,250	500	500
Other Insurance Intermediaries other than brokers	300	150	150

LEGAL NOTICE NO. 124 OF 2016

Insurance (Financial Reporting Requirements) Regulations, 2016

Pursuant to sections 29(2), 34(2), 65, 68, 78(6)(d) and 103 and 134 of the Insurance Act of 2014¹, I,

RETŠELISITSOE MATLANYANE

Governor of the Central Bank of Lesotho make the following regulations -

Citation and commencement

1. These regulations may be cited as the Insurance (Financial Reporting Requirements) Regulations, 2016 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. (1) In these regulations, all other words used have the same meaning ascribed to them under the Act, and unless the context otherwise requires -

“Act” means the Insurance Act of 2014;

“annual returns” means financial information of an insurer compiled at the end of each calendar year in the prescribed manner specified by the Commissioner;

“audited financial statement” means an insurer’s financial statements that are prepared in accordance with International Financial Reporting Standards and that have been audited by an independent chartered accountant in accordance with International Standards of Auditing;

“audit report” means a report containing the written opinion of an auditor regarding whether the insurer’s financial statements are presented fairly;

“calendar quarter” means the quarters ending March, June, September and December;

“Commissioner” means the Central Bank of Lesotho continued into existence by the Central Bank Act, 2000²;

“financial year” in relation to an insurer, means each period of 12 months beginning on 1st January and ending on 31st December of each year and includes any lesser or greater periods as the Commissioner may approve;

“person” includes any individual or company, partnership, syndicate, association or body persons, corporate or unincorporated;

“quarterly returns” means unaudited financial information of an insurer compiled at the end of each calendar quarter in the prescribed manner specified by the Commissioner.

Application

3. These regulations apply to any person licensed to engage in the provision of insurance business in Lesotho, in accordance with the provisions set forth in the Act.

Purpose

4. The purpose of these Regulations is to provide for the requirements for the filing of financial statements, reports and returns by the insurer and insurance brokers.

Approval and Appointment of an Auditor

5. (1) The Commissioner shall not approve the appointment of an auditor by an insurer under Section 66 of the Act, unless satisfied that -

- (a) any person in the auditing firm is not a director or employee of the insurer or of a related body;
- (b) the partner responsible has appropriate formal qualifications and is a member, and in good standing, of the Lesotho Institute of Accountants certified to provide auditing functions recognized by the Lesotho Institute of Accountants;

- (c) the partner responsible has a minimum of five years' experience in auditing in the insurance or financial sector; and
- (d) any person in the auditing firm is not the appointed actuary or a partner of the appointed actuary.

(2) The appointment of an auditor shall not take effect unless it has been approved by the Commissioner.

Audited Financial Statements

6. (1) An insurer shall submit audited financial statements, reports and returns for each financial year that conform with accounting standards and such form as prescribed by the Commissioner from time to time.

(2) An insurer shall prepare and submit to the Commissioner annual audited financial statements within 90 days after the end of its financial year.

(3) The audited financial statements shall be approved by the insurer's Board of Directors and shall be signed by the Chief Executive Officer or Managing Director, and Chief Financial Officer of the insurer.

(4) An insurer shall prepare the audited financial statements in accordance with International Financial Reporting Standards.

(5) The audited financial statements shall include an independent auditor's report in such format as mandated by International Auditing Standards.

Submission of Returns

7. (1) An insurer shall prepare and submit to the Commissioner, annual returns for each financial year within 90 days after the end of each calendar year as prescribed by the Commissioner from time to time.

(2) The annual returns shall be signed by the Chief Executive Officer or Managing Director, and Chief Financial Officer of the insurer.

(3) An insurer shall prepare and submit to the Commissioner quarterly returns within 30 days after the end of each calendar quarter.

(4) The quarterly returns shall be signed by the Chief Executive Officer or Managing Director, and Chief Financial Officer of the insurer.

(5) An insurer shall use the appropriate forms to prepare the annual and quarterly returns and include such information as prescribed by the Commissioner from time to time.

(6) An Insurer shall comply with instructions issued by the Commissioner with respect to the specific accounting, financial and other records that must be maintained by the insurer.

Financial reports

8. (1) An insurance broker shall prepare and submit to the Commissioner annual financial statements within 90 days after the end of its financial year.

(2) An insurance broker shall use the appropriate forms to prepare the annual financial statements as prescribed by the Commissioner from time to time.

(3) An insurance broker shall comply with the Commissioner's request for financial information as needed.

(4) An insurance broker shall comply with instructions issued by the Commissioner with respect to the specific accounting, financial and other records that must be maintained by the broker.

Failure to file timely or prescribed financial reports

9. (1) An insurer or insurance broker who fails to submit to the Commissioner the required financial reports, in the prescribed form or on the required time, shall be subject to authoritative action as determined by the Commissioner, including enforcement action or penalty or both, unless the insurer or insurance intermediary has received written authorization directly from the Commissioner allowing such departure from the prescribed form and or time.

(2) An insurer or insurance broker shall receive written authorization from the Commissioner at least 30 days prior to the date due for any departure from the prescribed annual financial statement form or prescribed time. The de-

termination for any departure is subject to the review and approval of the Commissioner.

**DR. RETŠELISITSOE MATLANYANE
GOVERNOR OF THE CENTRAL BANK OF LESOTHO**

NOTE

1. Act No. 12 of 2014
2. Act No. 2 of 2000

Insurance (Reinsurance) Regulations, 2016

Pursuant to sections 62 and 134 of the Insurance Act of 2014¹, I,

RETŠELISITSOE MATLANYANE

Governor of Central Bank of Lesotho make the following regulations -

Citation and commencement

1. These regulations may be cited as the Insurance (Reinsurance) Regulations, 2016 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these regulations, all other words used have the same meaning as in the Act, unless the context otherwise requires -

“Act” means the Insurance Act, 2014;

“aggregated size of liabilities of insurer or reinsurer” means the volume of insurance obligations undertaken by an insurer or reinsurer under five largest separate risks and effective at the reporting date;

“Commissioner” means the Central Bank of Lesotho continued into existence by the Central Bank Act, 2000;

“insurance premiums” means contributions paid by an insured to an insurer, calculated and fixed in amounts under the insurance contract;

“liabilities of insurers or reinsurers” means the insurer’s assumed gross liabilities attributable to reinsurance ceded by domestic insurers; and for business ceded by domestic insurers for each class of insurance business, includes -

(a) reserves for unexpired risks;

- (b) reserves for outstanding claims;
- (c) contingency reserves to cover fluctuations in securities and variations in statistical estimates; and
- (d) reserves for claims incurred but not reported;

“liabilities under separate risks” means insurance obligations undertaken by an insurer or reinsurer on each separate insurance or reinsurance contract effective at the reporting date.

Application

3. These Regulations apply to any business and person licensed to carry on the business of insurance and reinsurance in Lesotho.

Purpose

4. The purpose of these Regulations is to establish the criteria to be considered in determining appropriate reinsurance of liabilities in respect of risks insured in Lesotho.

Reinsurance criteria

5. (1) An insurer or reinsurer licensed to engage in the business of insurance or reinsurance in Lesotho may reinsure all or part of a single risk in another solvent insurer.

(2) The insurers shall have the right to reinsure risks only under those insurance classes for which they possess a license.

(3) When reinsuring liabilities with external insurers, the volume of the liabilities ceded to reinsurer outside Lesotho shall not exceed 95 percent of the volume of liabilities of an insurer or reinsurer under one insurance or reinsurance contract.

(4) When reinsuring liabilities with external insurers the minimum size of retention shall be more or equal to 5 percent of the insurer or reinsurer’s solvency margin of the preceding quarter of the calendar year.

Liabilities of insurers or reinsurers

6. The Commissioner may, in relation to insurers and reinsurers' liabilities, prescribe any other reserves to be established and maintained for business ceded by domestic insurers in respect of any class of insurance business.

Reinsurance Contract

7. (1) Insurers may enter into treaty or facultative reinsurance contracts.

(2) The reinsurance contracts shall be submitted to the Commissioner within one month of the effective date.

(3) The insurer shall proceed with the reinsurance contract if the Commissioner does not notify the insurer of any modification or objection within 60 days.

(4) A completed reinsurance compliance form as set out in schedule 1 of these Regulations shall be submitted with the reinsurance contract.

(5) Insurers may place reinsurance only with a reinsurance company which has a long term rating not lower than the following ratings:

(a) Moody's Investor Services Baa3

(b) Standard and Poor's Corporation BBB

(c) Fitch Ratings BBB

(d) A.M. Best Company bbb

(e) Global Credit Rating (GCR) BBB.

(6) The ratings in subregulation (5)(a) should have been awarded within 18 months of coming into effect or renewal of the reinsurance contract.

(7) The Commissioner may approve use of reinsurance company with a lower rating than those specified in subregulation (5).

(8) During the period of cover, if the rating of the reinsurance company falls below the lowest rating in subregulation (5) or the rating is withdrawn, the insurer shall immediately inform the Commissioner with a full explanation including:

- (a) the new rating assigned, rating classification, date of assignment and rating organization;
- (b) the date of withdrawal;
- (c) the reasons for the action provided by the rating agency; and
- (d) a full explanation of what the insurer intends to do about it.

(9) The reinsurance contract shall include the following:

- (a) an insolvency clause where the reinsurance is to be paid without diminution in reference to the financial impairment of the ceding insurer; and
- (b) an entire agreement clause that declares that contract to be the complete and final agreement between the parties.

(10) If there is a change or amendment to a reinsurance contract, the insurer shall file such change or amendment with the Commissioner within one month after the effective date of the change or amendment.

(11) On or before March 31 of each year, the insurer shall file a statement setting forth all the company's reinsurance contracts for the preceding financial year.

(12) The statement referred to in subregulation (11) shall include:

- (a) a detailed description of the terms and conditions of the agreement; and
- (b) its effective date and length of the agreement.

(13) Upon submission of the statement, the insurer shall include copies of all reinsurance contracts referenced in the statement.

Prohibition on financial statements and returns in respect of reinsurance

8. (1) The Commissioner shall not approve an insurer's recognition of any asset or reduction of liabilities in its financial statements or returns, in respect of reinsurance or any other arrangement with another insurance company if, in the opinion of the Commissioner -

- (a) there is a significant possibility that the insurer's counterparty or counterparties under such reinsurance or other arrangement may default on their obligations there under; or
- (b) the default of the insurer's counterparty or counterparties under such reinsurance or other arrangement would significantly increase the risk that the insurer is or is likely to be unable to meet its liabilities.

(2) Information on compliance with the requirements on the reinsurance operations of an insurer or a reinsurer shall be submitted on the Reinsurance Compliance Form set out in Schedule 1.

Transitional provision

9. A person registered as an insurer under the Act shall adjust his insurance activities in accordance with these Regulations within 6 months of the coming into operation of these Regulations.

DATED:

DR. RETŠELISITSOE MATLANYANE
GOVERNOR OF THE CENTRAL BANK OF LESOTHO

NOTE

1. Act No. 12 of 2014

SCHEDULE 1

REINSURANCE COMPLIANCE FORM
(Regulations 7(4) and 8(2))

Information on compliance with requirements on reinsurance operations

(full name of the insurer/reinsurer)

As of day of 20

Part 1

Name of indicator	Line number	Value:	Note
Minimum size of own retention (in case of reinsurance with external insurance organizations)	1		
Value of the actual solvency margin of insurer (reinsurer) for the previous quarter	2		
Relation of line 1 to line 2 (%)	3	%	Minimum permissible value is 5%
Maximum volume of liabilities given ceded abroad by each separate insurance (reinsurance) contract	4	%	Minimum permissible value is 95%

Part 2

Information on compliance with requirements on reinsurance operations

Name of Insurer:

No.	Name of reinsurer (accepting reinsurance)*	Policy Type	Reinsurance Policy date	Rating of financial stability and date of rating (give the name of the rating agency)	Country of reinsurer	Volume of insurance liabilities reinsured	Volume of insurance premiums under contacts insured	Share of the reinsurers in total volume of insurance liabilities reinsured (%)
1	2	3	4	5	6	7	8	9
1								
2								
3								
4								
Total								

**When reinsuring through an insurance broker, give its name and share; information on reinsurers shall be attached to this table in accordance with this form.*

We confirm that the information presented in this Form is complete and authentic. We also confirm that this Form has been drawn to meet the requirements of the Regulation on Solvency of Insurers and Reinsurers.

Signatures:

(Full name) (signature)

Chief accountant
(Full name)

Place of the Seal

**Insurance (Fit and Proper Requirements for Intermediaries)
Regulations, 2016**

Pursuant to sections 73(1)(a)(v), 73(4), 75(d) and 134 of the Insurance Act, 2014¹, I,

RETŠELISITSOE MATLANYANE

Governor of the Central Bank of Lesotho make the following regulations -

Citation and commencement

1. These Regulations may be cited as the Insurance (Fit and Proper Requirements for Intermediaries) Regulations, 2016 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these Regulations, all other words used have the same meaning ascribed to them under the Act, and unless the context otherwise requires -

“Act” means the Insurance Act, 2014;

“advice” means any recommendation, guidance or proposal that is given to a person with a view to purchasing, investing in or varying a term and condition on an insurance product;

“Commissioner” means the Central Bank of Lesotho continued into existence by the Central Bank Act, 2000²;

“examination committee” means the committee appointed by the Commissioner under regulation 8(1);

“intermediary services” means any activity including advice, where a key employee or representative -

- (a) administers, keeps in safe custody or maintains information on insurance products;
- (b) collects premiums; or

- (c) receives, submits or processes claims;

“fit and proper guidelines” includes rules, processes, qualifications or procedures adopted by the insurer in determining the fitness and probity of insurance intermediaries;

“Gazette” means the Lesotho Government Gazette;

“representative” means a person who is employed or mandated by an insurance intermediary to render advice or intermediary services to clients.

Application

3. These Regulations apply to any business or person engaging in business as or holding themselves out as an insurance intermediary in Lesotho.

Purpose

4. The purpose of these Regulations is to establish the criteria to be considered in determining whether an insurance intermediary, a representative or a key employee of an insurance intermediary is fit and proper.

Competency requirements

5. (1) The Commissioner shall not grant a licence to an insurance intermediary applicant unless it is satisfied that a key employee of an insurance intermediary meets the requirements of a fit and proper person.

(2) If a key employee of an insurance intermediary is no longer fit and proper after the issuing of a licence to an insurance intermediary, the Commissioner may direct that such person be removed from office or withdraw the licence of an insurance intermediary.

(3) An insurance intermediary, and where applicable, a key employee or representative shall be considered fit and proper if the following requirements are met -

- (a) possession of relevant and adequate insurance experi-

ence;

- (b) possession of relevant and adequate qualifications;
- (c) successful completion of required regulatory examinations; and
- (d) maintenance of a required level of continuous professional development.

Experience requirements

6. Subject to regulation 5(3), an insurance intermediary, key employee or representative shall meet the minimum applicable experience as specified in the Schedule.

Qualification requirements

7. (1) The Commissioner shall, by notice published in a Gazette or directive, publish the qualifying criteria and list of recognised qualifications for key employees and representatives for each type of intermediary licence, each line of insurance business and each class of insurance.

(2) A key employee or representative may be exempted by the Commissioner where that individual at the time of appointment only meets the entry level qualifications while working under supervision until the recognised qualification is obtained.

Examination committee

8. (1) The Commissioner shall establish an examination committee which shall develop and conduct professional development courses, monitor and administer examinations of insurance intermediaries.

(2) The Commissioner shall determine the membership of the examination committee and all matters related thereto from time to time.

Regulatory Examinations

9. (1) An insurance intermediary shall sit and pass regulatory examinations in accordance with fit and proper requirements as directed by the Commissioner.

(2) Where an insurance intermediary is a body corporate, its key employees shall take and pass regulatory examinations referred to in subregulation (1).

(3) The Commissioner shall, by notice published in the Gazette or through a directive issued by the Commissioner, publish the requirements regarding regulatory examinations for key employees and representatives for each type of intermediary license, each line of insurance business and each class of insurance.

(4) The notice or directive referred to in sub-regulation (3) shall address all required and incidental matters relating to the setting and taking of such examinations.

(5) An insurance intermediary may be required to pass one or several specified regulatory examinations testing the knowledge of the individual with respect to the type of licence for which the application is to be made, the duties and responsibilities of an insurance intermediary, the insurance laws or product information as directed by the Commissioner.

(6) An insurance intermediary may be required to sit and pass regulatory examinations on a periodic basis.

(7) Regulatory examinations may be administered by the Commissioner or under direction of the Commissioner by an appointed third party.

Continuous professional development requirements

10. (1) An insurance intermediary shall take continuous professional development courses related to insurance business.

(2) The Commissioner shall by notice published in the Gazette or through a directive issued by the Commissioner, publish the required continuous professional development requirements for insurance intermediaries, key employees and representatives of insurance intermediaries for each type of inter-

mediary licence, each line of insurance business and each class of insurance.

(3) An insurance intermediary shall furnish the Commissioner with proof of continuous professional development undertaken for each type of insurance business.

Insurer responsibilities

11. (1) An insurer shall ensure that the insurance intermediary meets and maintains the requirements specified under the Act or any regulations made under the Act.

(2) An insurer shall prepare and maintain fit and proper guidelines which shall set out processes for determining fitness and probity of an insurance intermediary, a key employee or representative thereof.

(3) The fit and proper guidelines shall include details regarding who will conduct a fit and proper assessment, how it will be conducted and how often it will be conducted.

(4) Notwithstanding sub-regulation (3), an insurer shall perform an annual reassessment of all insurance intermediaries.

(5) An insurer shall -

- (a) notify the Commissioner of any administrative action which has been taken upon determination that an insurance intermediary is no longer fit and proper; and
- (b) notify the Commissioner within 10 working days of making the determination in sub-regulation (5), stating the reasons for the insurer's determination.

(6) The insurer shall be liable for all harmful actions done by the insurance intermediaries to the policyholder or creditor within the scope of their intermediary activities.

Termination of contractual relationship

12. The insurance intermediary shall not employ, contract, reappoint or enter into a new contractual relationship with the former key employee or representative unless -

- (a) the individual has within 12 months, after termination of contractual relationship, satisfied the fit and proper requirements established by the Commissioner under these regulations;
- (b) all outstanding business of the individual as a former key employee or representative of the insurer or insurance intermediary has been concluded; or
- (c) all complaints or legal proceedings submitted by any party against the individual, insurer, insurance intermediary and the Commissioner have been lawfully resolved or concluded, whether the individual was directly or indirectly involved.

Transitional provision

13. A person registered as an insurance intermediary under the Act, shall adjust his insurance activities in accordance with the provisions of this Act within one year from the coming into operation of these Regulations.

DR. RETŠELISITSOE MATLANYANE
GOVERNOR OF THE CENTRAL BANK OF LESOTHO

NOTE

- 1. Act No. 12 of 2014
- 2. Act No. 2 of 2000

SCHEDULE

**EXPERIENCE REQUIREMENTS
(Regulations 6)**

COLUMN 1	COLUMN 2	COLUMN 3
Type of Licence	Line/Class of Insurance	Minimum Experience (Training)
INSURANCE AGENT/INSURANCE BROKER	Long-Term Insurance	Key Employee: 24 months (or training under supervision) Representative: 3 months Agent: 3 months (or training under supervision)
INSURANCE AGENT/INSURANCE BROKER	Short-Term Insurance	Key Employee: 24 months Agent: 3 months (or training under supervision) Representative: 3 months
INSURANCE LOSS ASSESSOR	Short-Term Insurance	Key Employee 6 months Representative: 3 months
INSURANCE LOSS ADJUSTER	Short-Term Insurance	Key Employee: 6 months Representative: 3 months
INSURANCE RISK	All Lines	Key Employee:

CONSULTANT

6 months

Representative:
3 months

Insurance (Good Practice for Insurance Intermediaries) Code, 2016

Pursuant to section 135 of the Insurance Act of 2014¹, I,

RETŠELISITSOE MATLANYANE

Governor of the Central Bank of Lesotho, make the following codes -

Citation and commencement

1. This Code may be cited as the Insurance (Good Practice for Insurance Intermediaries) Code, 2016 and shall come into operation on the date of publication in the Gazette.

Objectives

2. The objectives of this Code are to -
- (a) commit insurance intermediaries to high standards of service in an effort to promote better relations between them and their customers;
 - (b) provide for fair and efficient mechanisms of dispute resolutions between insurance intermediaries and their customers; and
 - (c) promote and maintain trust and confidence in the insurance industry.

Interpretation

3. This Code supplements the Insurance Act, 2014 and the regulations made under it and shall be read together with them.

Competence of insurance intermediaries

4. (1) An insurance intermediary shall maintain the necessary knowledge and skill in order to provide services that are in accordance with all relevant laws and professional practices.

(2) A key employee of an insurance intermediary shall be required to meet the competency requirements set out in the Act and relevant regulations.

(3) An insurance intermediary shall only provide services in the areas that it is licensed.

Disclosure of Information

5. (1) Representations made and information provided by the insurance intermediary to a client shall be factually correct, clear, concise and provided in writing or by means of standard forms or format; and, contain all amounts, sums, values, charges, fees, remuneration or monetary obligations as required by the Act and prescribed by the Commissioner;

(2) Insurance intermediaries shall ensure that clients are made aware of the insurance intermediary's financial interest in the services provided and all fees and commissions shall be fully disclosed to clients.

Fiduciary responsibility of insurance intermediaries

6. An insurance intermediary shall -
- (a) acting in any fiduciary capacity, such as collecting premiums on behalf of the insurer or disbursing claims payments to a policyholder, take reasonable steps to ensure that the funds controlled are adequately safeguarded and disbursed promptly;
 - (b) account for all monetary transactions and shall, on receipt of the money from policyholders, issue a written confirmation of receipt thereof;
 - (c) ensure that records of monetary transactions received from policyholders are not coming led with the financial records of an insurance intermediary;
 - (d) maintain a separate bank account that is designated for funds of policyholders and such funds shall be deposited into the designated account within one business

day of receipt;

- (e) not withhold or deduct any amounts from the separate accounts that are not contractually agreed upon or not authorised by a policyholder;
- (f) be held responsible for payment of all bank charges related to the separate bank account designated for funds of policyholders;
- (g) not be responsible for bank charges of deposits or withdrawals that are related to the bank account of a policyholder;
- (h) ensure that any interest accrued in the separate account held for funds of a policyholder is the property of, and shall be paid to, the policyholder; and
- (i) perform monetary transactions within the time-frame required by the Act and as directed by the Commissioner.

Confidentiality of information

7. An insurance intermediary shall -

- (a) maintain procedures and systems that ensure records and documentation of a client are adequately safeguarded secured and held confidentially;
- (b) treat information obtained from the client in the course of business as confidential; and
- (c) ensure that information obtained from a client is not disclosed publicly without the written consent of the client, unless the information is required under any law or by a competent authority.

Maintenance of records

8. (1) An insurance intermediary shall keep records of information and documentation stipulated in this Code for a period of not less than 10 years after the end of the relationship with the client.

(2) The record of information in subparagraph (1) shall -

- (a) be made available for inspection within 7 days upon request by the Commissioner; and
- (b) be kept in an electronic or recorded format accessible and readily reducible to written or printed format.

Conflict of Interest

9. An insurance intermediary shall -

- (a) avoid any known or perceived conflict of interest and where it arises, shall disclose to the client, the nature and extent of such conflict of interest;
- (b) disclose the nature of any relationship or arrangement with a third party which may be perceived to give rise to a conflict of interest; and
- (c) develop, adopt, monitor and ensure compliance with a conflict of interest management policy and such policy shall be reviewed at least annually.

Advertisement

10. (1) An advertisement by an insurance intermediary shall not contain any statement, promise, costs and charges which are fraudulent, untrue or misleading and any assumptions made shall state that they are not guaranteed and that they are for illustrative purposes only.

(2) A copy of all advertising records shall be provided upon request by the Commissioner within 7 days of the request.

Complaints handling

11. (1) An insurance intermediary shall maintain -
- (a) a complaint log specifying the nature of complaint, date of complaint, full name, address and contact information of a person filing the complaint and actions taken to resolve the complaint;
 - (b) processes and procedures, for an internal complaint resolution system, which shall outline the process for recording, reviewing and resolving complaints in a fair and timely manner, as follows:
 - (i) advise the insured on how to lodge claims including the process followed when processing lodged claims;
 - (ii) make claim forms and other documents, pertaining to the claims readily available to the insured;
 - (iii) keep the insured up dated on the progress of the claim;
 - (iv) where a claim is rejected, advise the insured of the decision and the reason for the rejection in writing; and
 - (v) advise the insured of action that can be taken if a dispute arises on a claim, and the time limits in which this action must be taken if the insured is not satisfied with the decision of the insurer;
 - (c) keep a written record of all recommendations in respect of products or services and the facts on which those recommendations are based and such records shall be made available to the client upon request;
 - (d) not make unfair or unjust criticism of any product which currently forms part of the portfolio of a client;

- (e) not pass any unfair or unjust criticism or make unfair comparisons with the product or service offered by competitors;
- (f) explain advantages and limitations of a product or service marketed to a client.

(2) Where the conduct of an insurance intermediary is in contravention of the Act, regulations or the directive of the Commissioner, an insurance intermediary shall be guilty of an offence and the Commissioner may also act against the insurance intermediary in terms of section 98 of the Act.

DR. RETŠELISITSOE MATLANYANE
GOVERNOR OF THE CENTRAL BANK OF LESOTHO

NOTE

1. Act No. 12 of 2014

Insurance (Good Practice for Insurers) Code, 2016

Pursuant to section 135 of the Insurance Act of 2014¹, I,

RETŠELISITSOE MATLANYANE

Governor of the Central Bank of Lesotho, make the following codes -

Citation and commencement

1. This Code may be cited as the Insurance (Good Practice for Insurers) Code, 2016 and shall come into operation on the date of publication in the Gazette.

Objectives

2. The objectives of this Code are to -
- (a) commit insurers to high standards of service in an effort to promote better relations between them and their customers;
 - (b) provide for fair and efficient mechanisms of dispute resolutions between insurers and their customers; and
 - (c) promote and maintain trust and confidence in the general insurance industry.

Interpretation

3. This Code supplement the Insurance Act, 2014 and the regulations made under it and shall be read together with them.

Competence of insurers

4. (1) An insurer shall -
- (a) maintain the necessary knowledge and skill in order to provide services that are in accordance with all relevant

-
- laws and professional practices;
 - (b) ensure that the insurer's key employees meet the competency requirements set forth and directed by the Commissioner; and
 - (c) only provide services in the areas that it is licensed.

Preventive and corrective measures

5. An insurer shall adequately employ the resources, procedures and appropriate technological systems that minimize the risk of theft, fraud, poor administration, negligence, professional misconduct or culpable omissions.

Disclosure of information

6. Representations made and information provided by an insurer to a client shall -
- (a) be factually correct;
 - (b) clear and concise;
 - (c) provided timely in writing or by means of standard forms or format; and
 - (d) contain all amounts, sums, values, charges, fees, remuneration or monetary obligations as required by the Act and prescribed by the Commissioner.

Dealings with intermediaries

7. An insurer shall -
- (a) furnish insurance intermediaries with written mandates to act on their behalf clearly stipulating the terms and conditions of such agreements;
 - (b) instruct insurance intermediaries and employees not to provide advice in relation to any product in which they

have not been trained, nor arrange insurance for consumers where the insurance intermediaries does not have expertise;

- (c) ensure that -
 - (i) insurance intermediaries are provided with appropriate product information and training;
 - (ii) insurance intermediaries receive adequate and ongoing training and instruction for the insurance service they are authorised to arrange or provide;
 - (iii) insurance intermediaries inform consumers of the identity of the insurer for whom they are acting and the nature of the relationship between the insurer and the intermediary;
 - (iv) all investigators, insurance loss adjusters and insurance loss assessors and other insurance intermediaries acting on their behalf are appropriately qualified in the field they are investigating and act in a professional manner;
 - (v) the insurance loss adjusters, insurance loss assessors and investigators do not intimidate or threaten the insured for information; and
 - (vi) no commission or other incentives are paid to an investigator, an insurance loss adjuster and an insurance loss assessor, except for agreed fees.

Transparency in insurance policy contracts

- 8. An insurer and his or her appointed insurance intermediaries shall -
 - (a) ensure that -
 - (i) the prospective policyholder understands what

is being purchased, and draw the buyer's attention to any restrictions and exclusions applying to the policy;

- (ii) the extent of the cover provided is clear, transparent and unambiguous;
 - (iii) the consequences of non-disclosure and inaccuracies are pointed out to the prospective policyholder; and
- (b) inform the insured about the importance of reading and understanding the policy contract upon acceptance.

Issuance of policy contract

9. An insurer shall -

- (a) issue a policy contract within 30 days following the signing of the proposal by the client; and
- (b) ensure that the terms in a policy contract are similar to those in the proposal.

Confidentiality of information

10. An insurer shall -

- (a) maintain procedures and systems that ensure records and documentation of a client are adequately safeguarded, secured and held confidentially;
- (b) treat client's information as confidential and any such information obtained in the course of business from the client; and
- (c) ensure that information obtained from a client may not be disclosed publicly without the written consent of the client, unless the information is required under any law or by a competent authority.

Maintenance of records

11. (1) An insurer shall keep records of information and documentation stipulated in these Codes for a period of not less than 10 years after the end of the relationship with the insured person;
- (2) The record of information in sub-paragraph (1) shall -
- (a) be made available for inspection within 7 days upon request by the Commissioner;
 - (b) be kept in an electronic or recorded format accessible and readily reducible to written or printed form.

Conflict of interest

12. (1) An insurer shall -
- (a) avoid any known or perceived conflict of interest and where it arises, shall disclose to the client, the nature and extent of such conflict of interest;
 - (b) disclose to the client the nature of any relationship or arrangement with a third party which may be perceived to give rise to a conflict of interest; and
 - (c) develop, adopt, monitor and ensure compliance with a conflict of interest management policy and such policy shall be reviewed at least annually.

Advertisement

13. (1) An advertisement by an insurer shall not contain any statement, promise, costs and charges which are fraudulent, untrue or misleading and any assumptions made shall state that they are not guaranteed and that they are for illustrative purposes only.
- (2) A copy of all advertising records shall be provided upon request

by the Commissioner within 7 days of the request.

Complaints handling

14. (1) An insurer shall maintain -
- (a) a complaint log specifying the nature of complaint, date of complaint, full name, address and contact information of a person filing the complaint and actions taken to resolve the complaint.
 - (b) processes and procedures, for an internal complaint resolution system, which shall outline the process for recording, reviewing and resolving complaints in a fair and timely manner, as follows:
 - (i) advise the insured on how to lodge claims including the process followed when processing lodged claims;
 - (ii) develop claim forms and other documents, pertaining to the claims and make them readily available to the insured;
 - (iii) keep the insured up dated on the progress of the claim;
 - (iv) settle claims fairly without unnecessary delay;
 - (v) where a claim is rejected, advise the insured of the decision and the reason for the rejection in writing; and
 - (vi) advise the insured of action that can be taken if a dispute arises on a claim, and the time limits in which this action must be taken if the insured is not satisfied with the decision of the insurer.
- (2) Subparagraph (b) applies to an intermediary of an insuree.

(3) Where the conduct of insurer is in contravention of the Act, regulations or the directive of the Commissioner, the insurer shall be guilty of an offence and the Commissioner may also act against the insurer in terms of section 98 of the Act.

(4) An insurer shall keep a written record of all recommendations in respect of products or services and the facts on which those recommendations are based and such records shall be made available to the client upon request.

(5) An insurer shall not pass unfair or unjust criticism of any product which currently forms part of the portfolio of a client and shall not pass any unfair or unjust criticism or make unfair comparisons with the product or service offered by competitors.

(6) When any product or service is marketed to a client, the advantages as well as limitations of the relevant product, or service which is marketed, shall be explained to the client.

**DR. RETŠELISITSOE MATLANYANE
GOVERNOR OF THE CENTRAL BANK OF LESOTHO**

NOTE

1. Act No. 12 of 2014

