EXPLANATORY MEMORANDUM:
INSURANCE (VALUATION OF TECHNICAL PROVISION FOR LIFE INSURANCE BUSINESS) (AMENDMENT) GUIDELINES, 2019

LEGAL NOTICE NO. 82 OF 2019

The National Treasury and Planning

Tabled on:

1.0 Purpose of the Guidelines

The Guidelines propose to amend the Legal Notice No. 38 of 2017 on Valuation of Technical Provisions for Life Insurance Business to review the capital charge and risk margin on interest rate in order to align it with the outcome of the study conducted by the Authority following a request made by the Actuarial Society of Kenya. This was based on the effect the risk margins and the capital charge had on the market.

2.0 Legislative Context

Under section 3A (1) (g) of the Insurance Act and the Statutory Instruments Act 2013, the Authority is empowered to issue Guidelines for better administration of insurance business in Kenya.

3.0 Policy Background

Section 3 of the Act establishes the Authority known as the Insurance Regulatory Authority (IRA), which is a body corporate with perpetual succession and a common seal, capable of suing and being sued, taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property, borrowing or lending money, and doing or performing all other things or acts for the furtherance of its functions under the Act.

The Association of Kenyan Insurers (AKI), on behalf of the Life Insurance Companies in the industry communicated the negative impact of the interest rate risk margin of 20% as prescribed in The Insurance (Valuation of Technical Provisions for Life Insurance Business) Guidelines, 2017 through Legal Notice No. 38. The negative impact communicated was supported by an industry report conducted by The Actuarial Society of Kenya (TASK) on behalf of AKI.

The negative effects include:

- Suppressed profit for life insurers, due to the high (20%) risk margin, sending negative signals to investors and customers that the life insurance industry adds little value to stakeholders.

- Decreased Capital Adequacy Ratio (CAR) which increases the cost of capital to companies and hence shareholder value.

- A non-quantitative impact is that the life insurers are unwilling to grow their annuity business because capital requirements are very high due to the high risk margin and also because it has resulted in the product being priced higher and becoming expensive and out of reach to many pensioners (i.e. pensioners get lesser regular income for the same price the higher the risk margin).

The TASK/AKI report therefore recommended that the risk margin be reduced to between 5% and 7%.

The Authority did its own analysis report to assess whether the regulatory threshold in ensuring the value of technical liabilities is adequate to weather market volatility as well as the potential cost of transferring the liabilities to a third party.

The Authority's report recommended the Interest rate risk margin for valuation purposes be reduced to 10% from the current 20% (Legal Notice No. 38 of 2017).

The Guidelines will propel growth of the industry as per section 3A (C) where the Authority is mandated to promote the development of the Insurance sector. The objects and functions of the Authority are to ensure effective administration, supervision, Guideline and control of insurance and reinsurance business, formulate and enforce standards for the conduct of insurance and reinsurance business in Kenya and to license all persons involved in or connected with insurance business.

The Authority is a member of International Association of Insurance Supervisors which is a standard setting body for insurance supervision and the objective is to create confidence in the insurance sector by promoting the maintenance of a fair, safe and stable insurance sector, to protect the interest of the insurance policyholders and beneficiaries, and generally promoting the development of the insurance sector.

The National Treasury and Planning is in charge of the overall policy framework. The ministry approves the policy and regulatory framework as developed by the Insurance Regulatory Authority.

4.0 Consultation Outcome

As provided for in Articles 10 and 118 of the Constitution of Kenya and the Statutory Instruments Act 2013, the Authority consulted the selected stakeholders on the effect of the Guidelines. The outcome of the consultations resulted in the policy decision to amend the existing guidelines.

The following consultations and stakeholder forums were held.

SCHEDULE OF STAKEHOLDER CONSULTATION

Date	Venue/communication	Workshops / Forums
9/10/2018	Submission of study report by the Actuarial Society of Kenya through Association of Kenya Insurers	Letter dated 9th October 2018
30/11/2018	Insurance Regulatory Authority's Training Room	Meeting between The Actuarial Society of Kenya Council Members and the Authority to disseminate the Authority's study report.
12/02/2019	Communication of Authority's approval of the study	Letter dated 12th February 2019

The Authority consulted the insurers through the Association of Kenya Insurers (AKI) and The Actuarial Society of Kenya (TASK). The selection of AKI was guided by the expected impact the amended Guidelines will have on the insurersbusiness as regard their financial performance. TASK was considered a key stakeholder due the technical nature of these guidelines.

The Authority conducted an independent study to determine whether the risk margins proposed by AKI and TASK meet the regulatory threshold in ensuring that the value of technical liabilities is adequate to withstand market volatility as well as the potential cost of transferring the liability to a third party. It therefore follows that all the interest of the stakeholders were taken into consideration.

5.0 Impact

5.1 Rights and Freedoms

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

The Guidelines 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 Guidelines will improve the financial position of life insurance companies. This will have the effect of promoting insurance business and support penetration while maintaining a fair, safe and stable insurance sector.

5.3 The Impact on the Public Sector

The Guidelines provide for the mechanism of technical valuation forlife insurance business. The Guidelines will safeguard the interest of the policyholders and the members of the public in general.

6.0 Monitoring Review

The Guidelines shall come into effectupon approval by the National Assembly.

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

HENRY K. ROTICH
CABINET SECRETARY FOR THE NATIONAL TREASURY AND PLANNING

July 2019

LEGAL NOTICE NO. 82

THE INSURANCE ACT

(Cap. 487)

IN EXERCISE of the powers conferred by section 3A (1) (*g*) of the Insurance Act, the Insurance Regulatory Authority issues the following guidelines—

THE INSURANCE (VALUATION OF TECHNICAL PROVISIONS FOR LIFE INSURANCE BUSINESS) (AMENDMENT) GUIDELINES, 2019

1. These guidelines may be cited as the Insurance (Valuation of Technical Provisions for Life Insurance Business) (Amendment) Guidelines, 2019. Citation.

2. Appendix 2 of the Insurance (Valuation of Technical Provisions for Life Insurance Business) Guidelines, 2017 is amended by deleting the expression "20%" appearing in the row relating to interest rates and substituting therefor the expression "10%". Amendment of L.N. No. 38 of 2017.

Dated the 6th June, 2019.

ABDIRAHI H. ABDI,
Chairman of the Board of Directors,
Insurance Regulatory Authority.

GODFREY K. KIPTUM,
Commissioner of Insurance and Chief Executive Officer
of the Insurance Regulatory Authority.

LEGAL NOTICE NO. 83

THE INSURANCE ACT

(Cap. 487)

IN EXERCISE of the powers conferred by section 3A (1) (g) of the Insurance Act, the Insurance Regulatory Authority issues the following guidelines—

THE INSURANCE (CAPITAL ADEQUACY) (AMENDMENT) GUIDELINES, 2019

1. These guidelines may be cited as the Insurance (Capital Adequacy) (Amendment) Guidelines, 2019. Citation.

2. Paragraph (a) of Appendix 1 of the Insurance (Capital Adequacy) Guidelines, 2017, hereinafter referred to as the "principal Guidelines", is amended by deleting the expression "10%" appearing in the row relating to interest rates and substituting therefor the expression "18%". Amendment of L.N. No. 39 of 2017.

3. The principal Guidelines are amended by deleting Appendices 2 and 4 and substituting therefor the following new Appendices— Amendment of L.N. No. 39 of 2017.

APPENDIX 2

(a) Insurance risk factors – General insurance companies and life insurance companies transacting group life and group credit business;

Classes of business	*Premium reserve – Risk charge*	*Claims reserve – Risk charge*
Aviation	39%	29%
Engineering	8%	4%
Fire industrial	9%	6%
Fire domestic	3%	2%
Liability	9%	9%
Marine	7%	8%
Motor vehicle private – property damage	5%	5%
Motor vehicle private – liability	12%	12%
Motor vehicle commercial – property damage	3%	3%
Motor vehicle commercial – liability	13%	13%
Motor vehicle commercial – PSV – property damage	3%	3%
Motor vehicle commercial – PSV – liability	14%	14%
Personal accident	6%	9%
Theft	4%	4%
Workmen's compensation	18%	19%
Miscellaneous	8%	6%
Medical	15%	13%
Group life	10%	8%
Group credit	12%	10%

(b) Insurance risk factors – reinsurance companies

Classes of business	*Premium reserve – risk charge*	*Claims reserve – risk charge*
Aviation	42%	26%
Engineering	9%	6%
Fire industrial	10%	6%
Fire domestic	5%	3%
Liability	13%	12%
Marine	12%	10%
Motor vehicle private – property damage	8%	7%
Motor vehicle private – liability	16%	15%
Motor vehicle commercial – property damage	6%	5%
Motor vehicle commercial	17%	16%

Classes of business	*Premium reserve – Risk charge*	*Claims reserve – Risk charge*
– liability		
Motor vehicle commercial – PSV – property damage	5%	5%
Motor vehicle commercial – PSV – liability	17%	16%
Personal accident	10%	12%
Theft	7%	6%
Workmen's compensation	20%	22%
Miscellaneous	8%	8%
Medical	15%	13%
Group life	10%	8%
Group credit	12%	10%

APPENDIX 4

Market risk – Insurance and reinsurance companies capital charges

Equity risk	*Risk charge*
Listed ordinary shares on the Nairobi Securities Exchange	30%
Listed ordinary shares in other regional securities exchanges	30%
Listed preference shares on the Nairobi Securities Exchange	35%
Listed preference shares on other regional securities exchanges	40%
Unlisted shares or private equity	40%
Property risks	
Land and self-occupied properties	40%
Investment property	30%
Real Estate Investment Trust	30%

Interest rate risk			
Scenario	*Asset value*	*Liability value*	*surplus*
Base interest rate			
Increasing interest rate			
Decreasing interest rate			
Interest rate risk capital			

Currency risk				
Type of currency	*Net on balance sheet position*	*Net forward position*	*Net long position*	*Net short position*
Total position				
Exposure				
Currency				8%

Classes of business		*Premium reserve – Risk charge*		*Claims reserve – Risk charge*
risk charge				
Currency risk capital charge				

Dated the 6th June, 2019.

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Chairman of the Board of Directors,
Insurance Regulatory Authority.

GODFREY K. KIPTUM,
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