GOVERNMENT NOTICE NO. 61

INSURANCE ACT

(CAP 47:01)

INSURANCE (DETERMINATION OF POLICY LIABILITIES OF LIFE INSURERS) DIRECTIVE, 2018

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IN EXERCISE of the powers conferred by section 79 (3) (*k*) (iii) of the Insurance Act, I, DR. DALITSO KABAMBE, Registrar of Financial Institutions, issue the following Directive—

PART I—PRELIMINARY

Citation

1. This Directive may be cited as the Insurance (Determination of Policy Liabilities of Life Insurers) Directive, 2018.

Interpretation

2. In this Directive, unless the context otherwise requires—

"acquisition costs" means fixed and variable costs of acquiring new business;

"actuarial professional standards" includes actuarial professional standards of South Africa, Canada, Australia, United States of America and United Kingdom or any actuarial professional standards as may be approved by the Registrar;

"accumulation or retrospective method" means the method of calculating the policy liability where the policy liability is represented for saving policies as the value of the account balance (the capital and interest so far accumulated), less any acquisition costs to be recouped from that balance, and for protection policies, as the value of any outstanding claims (including incurred but unreported claims) plus the value of the unexpired risk, less acquisition costs to be recouped from that balance;

"appointed actuary" means an actuary appointed by a life insurer in terms of section 25 of the Act;

"best estimate assumptions" means assumptions about future experience which are made using professional judgment, training and experience and are neither deliberately overstated nor deliberately understated;

"best estimate liability" means the liability calculated using the best estimate assumptions;

"bonus" means an amount added at the discretion of the life insurer to the benefits due under a discretionary policy;

"discretionary policy" means a policy where the life insurer has discretion over additions to policies including those from investment earnings;

"investment management costs" means fixed and variable costs of managing investment funds;

"maintenance costs" means—

(*a*) fixed and variable costs of administering policies subsequent to the sale and recording of the policies;

(*b*) fixed and variable costs of administering the general operations of the life insurer; and

(*c*) all operating costs and expenses other than acquisition costs and investment management costs;

"policy liability" means a liability calculated in accordance with this Directive;

"projection method" means the method of calculating the policy liability where the policy liability is represented by the present value of expected future net cash outflows or inflows relating to the policy plus the expected future profit which is included because the net cash-flows in practice differ from the accounted profit; and

"Valuation date" means an effective date of analysis and valuation of policy liabilities by the appointed actuary.

PART II—OBJECTIVES

Objectives

3. The objectives of this Directive are to—

(*a*) ensure that life insurers undertake a prudent valuation of their actuarial and other policy liabilities;

(*b*) establish a framework under which an appointed actuary of a life insurer determines appropriate methods and assumptions to value policy liabilities of a life insurer; and

(*c*) link the underlying policy liability to solvency requirements set down under the Insurance (Minimum Capital and Solvency Requirements for Life Insurers) Directive, 2017.

PART III—SPECIFIC REQUIREMENTS

Determination of best estimate liabilities

4.—(1) The policy liabilities of a life insurer shall be determined using best estimate assumptions and with due regard to significant recent experience.

(2) The best estimate liability shall be determined as the value of the expected future payments and receipts under the policy based upon the obligations at the reporting date and shall be equal to the present value of expected future benefit payments plus the present value of future expected expenses less the present value of expected future receipts.

(3) The value determined under subparagraph (2), shall make proper allowance for reinsurance having regard to the nature of the arrangements and the materiality of such business.

(4) A life insurer's benefit obligations shall include all contractual benefits.

(5) Discretionary policies shall include bonuses declared prior to, but not on or after, the valuation date.

(6) An appointed actuary, in projecting the expected future cash flows, shall make assumptions about the expected future experience, taking into account all factors considered to be material to the calculation including, but not limited to—

(*a*) investment earnings;

(*b*) inflation;

(*c*) taxation;

(*d*) expenses;

(*e*) mortality and morbidity; and

(*f*) policy discontinuances.

(7) The appointed actuary shall review the assumptions at the time of each valuation of policy liabilities including any reviews of the policyholder liabilities before the lapse of a year after the previous valuation.

Determination of policy liabilities

5.—(1) A life insurer shall determine the policy liability using the projection method.

(2) The policy liability shall not be less than the greater of—

(*a*) the best estimate liability; and

(*b*) the minimum termination value of the policy.

(3) The policy liability shall include the present value of future expected profits, to be released over the remaining life of the policy.

(4) A life insurer may use an alternative approach of calculating the policy liability such as the accumulation or retrospective method, provided that the profit emerging in each year is not materially different from the profit derived using a projection method.

(5) The appointed actuary shall be responsible for justification of the method and assumptions employed.

(6) A insurer shall ensure that the method of determining the amount of policy liabilities and the assumptions for the valuation parameters is not subject to arbitrary discontinuities from one year to the next.

(7) The appointed actuary shall make appropriate adjustments to the policy liability where the basis of asset valuation used for financial statements is not consistent with the basis of asset valuation implicit in the valuation of the liabilities.

(8) A life insurer shall provide an explicit allowance for profits to be recognized prudently over the future life of a policy to avoid the premature recognition of profits that may give rise to losses in future years.

(9) Where the valuation shows a deficit, a life insurer shall immediately recognize that deficit.

(10) The policy liability calculations shall include such margins as the appointed actuary considers appropriate to the particular company.

Data and information used by the appointed actuary

6.—(1) A life insurer shall ensure that its database is up to date and that the data provided to an appointed actuary is accurate and complete.

(2) A life insurer shall—

(*a*) give an appointed actuary unrestricted access to the database; and

(*b*) furnish expeditiously, upon request by an appointed actuary, data and explanation as the appointed actuary may reasonably require when conducting the valuation of liabilities of the life insurer's business.

(3) An appointed actuary shall ensure that the data on business in force is accurate and complete.

(4) An appointed actuary shall make appropriate allowance in his estimations to review and document the basis of an allowance, where he has reason to believe that the data may produce material biases in the results.

Statement by an appointed actuary.

7.—(1) An appointed actuary shall prepare a report to be known as the "financial condition report" in respect of each valuation of policy liabilities covered by this Directive.

(2) An appointed actuary shall provide the financial condition report to the Board of the life insurer and the Registrar of Financial Institutions within 90 days from the end of the financial year of the life insurer.

(3) The financial condition report shall include, but not be limited to—

(*a*) a summary of the results;

(*b*) a description of the method adopted for determining the policy liabilities in respect of each type of policy;

(*c*) a description of the assumptions adopted for the determination of the policy liabilities for each type of policy, including—

(i) the rates of interest and the asset mix from which they were derived;

(ii) the future maintenance and investment costs;

(iii) the rate of inflation applicable to future expenses and any automatic indexation of benefits and premiums;

(iv) the rates of taxation and their legislative basis;

(v) the tables of mortality and morbidity;

(vi) the rates of discontinuance;

(vii) the surrender value basis applied or a sample of surrender values;

(viii) the rates of growth of unit prices in respect of unit linked policies; and

(ix) the basis of future bonus additions in respect of discretionary policies;

(*d*) a description of the rates of commission reflected in the valuation;

(*e*) a separate summary of the results including proposed or declared bonuses that are known at the date of the valuation;

(*f*) an opinion regarding the data upon which the valuation was conducted;

(*g*) a statement by an appointed actuary confirming that the value of the policy liabilities conforms with this Directive in all material respects;

(*h*) a classification of discretionary and non-discretionary policies;

(*i*) an analysis of profit broken down into the planned and experience components;

(*j*) a certificate attesting to the solvency position of the life insurer;

(*k*) a summary of the analyses and conclusions concerning the

experience of the business since the previous valuation; and

(*l*) a summary of the appointed actuary's assessment of the life insurer's business plans, enterprise risk management, skills and practices and the external environment.

(4) An appointed actuary shall ensure that a financial condition report addresses the solvency requirements stipulated in the Insurance (Minimum Capital and Solvency Requirements for Life Insurers) Directive, 2017 and shall—

(*a*) identify, describe and where practical quantify the material risks facing a life insurer that, in the appointed actuary's opinion, pose a threat to the life insurer's ability to meet current and future solvency requirements;

(*b*) comment on the steps taken or proposed to be taken to address the risks identified in paragraph (*a*);

(*c*) advise on steps to be taken to address risks identified in paragraph (*a*);

(*d*) advise the life insurer on the appropriate treatment for solvency purposes of any insurance business with characteristics not adequately addressed by the Insurance (Minimum Capital and Solvency Requirements for Life Insurers) Directive, 2017;

(*e*) comment on the risks involved with mismatching assets and liabilities;

(*f*) outline the adverse experience assumptions adopted in establishing liabilities in excess of those arising under the best estimate assumptions;

(*g*) identify those assumptions to which the life insurer's solvency margin is most sensitive and quantify those sensitivities;

(*h*) advise on whether the life insurer, having regard to the summary under paragraph 8(3) (*k*), is likely to fail the solvency requirement in the next 3 years; and

(*i*) advise on how reasonable estimates of the policy liability and solvency disclosure can be made each quarter during the ensuing year.

Valuation of policy liabilities and assets

8.—(1) A life insurer shall conduct a valuation of its policy liabilities at least once every year as part of its end of financial year reporting of the company.

(2) Notwithstanding paragraph (1), the Registrar may require a life insurer to conduct a valuation of its policy liabilities at any point in time other than at the end of the financial year, depending on the extent of the change in the business volume and profile, claims and underwriting processes, and policy and business conditions.

Reporting of policy liabilities in financial statements

9.—(1) The value of the policy liabilities must be reflected in the statement of financial position of the life insurer while any increase (or decrease) in policy liabilities must be reflected in the statement of comprehensive income of the life insurer.

(2) A life insurer shall conduct a valuation of its assets in accordance to accounting standards, at fair value through the profit and loss account.

PART IV—ENFORCEMENT

Monetaly penalties

10.—(1) The Registrar shall impose the following monetary penalties for violations of this Directive—

(*a*) a fine up to K50,000,000 where the violation is committed by a life insurer;

(*b*) a fine up to K10,000,000 where the violation is committed by individuals who are members of the Board or management; and

(*c*) in addition, a fine of K50,000 may be imposed on the life insurer or individual for each subsequent day for which a violation continues after being notified by the Registrar that it is in breach of the provisions of this Directive.

(2) The penalties imposed in subparagraph (1) shall be paid through a bank certified cheque or electronic transfer payable to the Reserve Bank of Malawi within 10 working days after being notified of the violation.

Remedial measures and administrative penalties Cap. 44:05

11. Where the Registrar determines that an insurer has not met the requirements of this Directive, the Registrar may impose administrative penalties in accordance with the provisions of the Financial Services Act, to correct the situation.

Dated this 29th day of June 2018

D. KABAMBE, PhD
Registrar of Financial Institutions

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