

**PARLIAMENT OF UGANDA**

**REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND  
ECONOMIC DEVELOPMENT ON THE INSURANCE BILL, 2016**

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OFFICE OF THE CLERK TO PARLIAMENT  
February 2017

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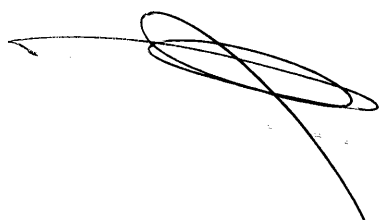
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# REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE INSURANCE BILL, 2016

## 1.0 Introduction

The Insurance Bill, 2016 was reintroduced in the House on 15<sup>th</sup> November 2016, and referred to the Committee on Finance, Planning and Economic Development in accordance with Rule 118 of the Rules of Procedure of Parliament.

## 2.0 Object of the Bill

The object of the Bill is to repeal the Insurance Act, Cap 213; to amend and replace the law relating to insurance; to provide for the regulation of insurance business; to continue in existence the Insurance Regulatory Authority of Uganda as the body responsible for regulation of insurance business; and to provide for related purposes.

## 3.0 Methodology

The Committee held meetings and received memoranda from the following:

- (i) Minister of Finance, Planning and Economic Development
- (ii) Insurance Regulatory Authority
- (iii) Uganda Retirement Benefits Regulatory Authority
- (iv) Institute of Chartered Public Accountant of Uganda
- (v) Capital Markets Authority
- (vi) Uganda Insurers Association

## 4.0 Observations by members

The Committee observed that:

(i) The current law on insurance in Uganda is contained in the Insurance Act that came into force in 1996. This Act was amended in 2011 to

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improve administration, supervision, regulation and control of the insurance industry in Uganda. However, at the time of the amendment, the international Association of Insurance Supervisor's Insurance Core principles (ICPs) had not yet come into force. These ICPs which are adhered to by 240 countries, are now the benchmark for all insurance business in the world and Uganda is obliged to give effect to them in order to compete on the world stage.

- (ii) The Insurance Act does not incorporate the recommendations of the Financial Action Task Force including recommendations relating to anti-money laundering and countering financing of terrorism. Uganda's compliance with the ICP and FATF recommendations gives investors comfort, the bankers' willingness to lend and leads the reinsurers to reduce their rates. This makes Uganda a more acceptable destination for investors.
- (iii) Risk based insurance aims to minimize inherent residual risk the insurance company faces. The insurance companies assess the risk and allocates enough resources to cover it. It operates the principle of minimizing inherent risk, control, residual risk and additional support. Uganda is currently using rules based supervision to regulate the insurance. However this is not sufficient to protect policy holders from risk since the companies have capital requirements which they must fulfil irrespective of the policies underwritten. The proposed bill will introduce risk based supervision which will require companies to hold capital or near capital assets according to the risk undertaken.

Whereas the Government of Uganda came up with the policy of 'Buy Uganda Build Uganda (BUBU)' which aims at increasing consumption of local products and increasing participation of the locally established firms in domestic trade, the committee notes that in the Insurance Bill, there is no provision allowing for local risks, persons and imports to be

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insured locally by Ugandan firms. The absence of the protection and development of the local insurance firms leads to capital flight as most of the insurance companies are foreign. There is need to protect the local companies to grow capacity and reduce on the capital freight.

- (v) One of the major challenges facing the insurance sector include poor saving culture of the insured, lack of insurance knowledge and bad perception of the insurance industry hinder the growth of the sector. Massive sensitization should be undertaken by Insurance Regulatory Authority to encourage insurance and reduction of risk especially in the agricultural sector.
- (vi) The liquidation process under the insolvency law does not set policy holders as a priority in terms of creditors to the insolvent company. There is need to provide for liquidation of insurance companies in the law of insurance as opposed to the companies Act. This will improve confidence in the sector and attract more investment.
- (vii) The bill provides for distribution of dividends which should be approved by Insurance Regulatory Authority. However, the distribution of dividends is traditionally a preserve of the Board of Directors under Company Law. This will tantamount to micromanaging a company, and is not a supervisory function. Insurers should be able to distribute their surpluses as deemed fit subject to meeting solvency and capital requirements set by law.
- (viii) The bill states amounts for capital requirements in the law. However, this will make the process of revision of the amounts in future more time consuming as the law has to be amended. The amounts should be removed from the bill and put in the regulations and currency points should be used as opposed to figures. This will improve regulation of the sector.

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(ix) The bill provides for preparation of financial statements by the insurance companies. The bill provides for reporting according to the international financial reporting standards. However, international financial reporting standards are applicable in the manner adopted by the Institute of Certified Public Accountants of Uganda. The Council of ICPAU is empowered under S.12 (i) of the Accountant Act, 2013 "to issue and adopt international accounting and auditing standards and promote their usage in Uganda and make suitable adaptation where necessary". Therefore the bill, should take into account the provisions of the Accountants Act, 2013.

### 5.0 Recommendation

The Committee recommends that the Insurance Bill, 2016 be passed into law subject to the proposed amendments



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**Justification**

The word domestic supervisory authority is used in the bill and the financial institution is used in clauses 3, 98-99 and 117 of the Bill thus the need to define it for purposes of enabling clarity of the Bill.

- (v) By deleting the definition of "foreign insurer" and substituting the following-  
 "A foreign reinsurer is one incorporated and licensed as a reinsurer under the Laws of a country other than Uganda except Africa Re and PTA Re".

**Justification**

To provide clarity

- (vi) By deleting the definition of "foreign supervisory authority" and substituting the following-  
 "foreign supervisory authority" means an authority in a jurisdiction outside Uganda which performs functions corresponding or similar to those performed by the Authority or regulates or supervises any type of financial service;"

**Justification**

ICP 3.2.1 permits the authority to exchange information with foreign supervisors in regard to financial services and not limited to financial institutions only.

- (vii) By deleting the definition of "foreign reinsurer" and substituting the following-  
 "A foreign reinsurer is one incorporated and licensed as a reinsurer under the Laws of a country other than Uganda except Africa Re and PTA Re.

**Justification**

Africa Re is for African union and PTA Re is for COMESA

- (viii) By deleting the definition of "insurance agent" and substituting the following-  
 "insurance agent" means a person appointed and authorised by an insurer to solicit for applications for insurance or negotiate insurance coverage on behalf of the insurer or to perform other functions of an insurance nature that may be assigned to him or her by the insurer, and who in consideration for his or her services receives commission or other remuneration from the insurer;"





- (xiv) By deleting the words "this Act" in the definition of the word "life insurance business, and substitute the words "the Regulations"

**Justification**

The classes of life insurance business are to be provided for in the Regulations

- (xv) By deleting the definition of "loss assessor" and substituting the following-
- "loss assessor" means a person who, by way of business, investigates and negotiates the settlement of claims under insurance contracts solely on behalf of either the insurer or the insured but does not include—
- (a) an individual who is an employee of an insurer or an insurance agent while acting on behalf of the insurer or insurance agent;
  - (b) an insurance agent who is authorised to settle claims on behalf of the insurer for whom the insurance agent acts as agent; or
  - (c) a person who, acting as an expert, provides advice to a loss assessor, an insurer or an insured on the circumstances that give rise to the claim, provided that the person does not negotiate the settlement of the claim;"

**Justification**

To provide for a broader definition of loss assessor

- (xvi) by deleting the definition of "micro insurance" and substituting the following-
- "micro insurance contract" means an insurance contract approved by the Authority;"
- (xvii) by inserting immediately after the definition of "micro insurance contract" the following-
- "micro insurance business" means the business of undertaking liability as an insurer under a micro insurance contract;"

**Justification**

To provide for the definition of micro insurance contract and micro insurance business.

- (xviii) by deleting the definition of "national reinsurance company" and substituting the following-

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"national reinsurance company" means the company approved by the Authority as a national reinsurance company of which more than fifty one percent of the shares of the company are owned by licensees incorporated in Uganda or the decisions of the company are arrived at by the majority who are licensees incorporated in Uganda;."

**Justification**

To provide for a more clear definition of the word "national reinsurance company"

- (xix) by deleting the word "specified" in the definition of the word "non-life insurance business" and substituting the word "prescribed"

**Justification**

The proper word to use is prescribed

- (xx) by deleting the definition of "policyholder" and substituting the following-  
"policy holder" in relation to an insurance contract or a health benefit plan, means the person who entered into the insurance contract or health benefit plan with the insurer or HMO, if the rights of that person under the contract have been assigned or transferred, the person who has those rights;"

**Justification**

To provide for a broader definition covering HMOs as well and assignees

- (xxi) by inserting immediately after the definition of the word "premium", the following-  
"Reinsurance broker is a specialist intermediary involved in the placing of reinsurance"

**Justification**

The word is used in the Bill

- (xxii) by adding a new paragraph (d) immediately after paragraph (c) in the definition of the word "senior manager", to read as follows-

"(d) holds such other position or undertakes such other function and duties as may be prescribed by the Authority;"

**Justification**

To provide for a broader definition of who can be referred to as a senior manager thus promoting flexibility.

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- (xxiii) The definition of the word "substantial shareholder" should be deleted and replaced with the following-  
"significant owner" means a person who exercises control over a body corporate within the meaning of regulations made under this Act;"

**Justification**

To ensure compliance with ICP 6.1 which provides for a significant owner and not a substantial shareholder.

- (xxiv) By inserting immediately after the definition of "takaful insurance" the following-  
"third party administrator" means a person who provides services to an HMO or a licensed insurer in relation to the administration of health benefit plans or health insurance policies;"

**Justification**

The word is not defined and yet it is used in the Bill in clause 83(1) (h)

- (xxv) By inserting immediately after the definition of "tribunal" the following-  
"valid licence" means a licence that authorises the type of activity or business being carried on by the holder of the licence for the particular time period.

**Justification**

ICP 4.1 requires countries to prohibit the carrying on of unauthorised insurance activities and to define the permissible legal forms of domestic insurance legal entities;

1. Clause 3 is amended-

- (a) in sub clause (1) by inserting the words "or HMO" immediately after the words "insurer" wherever it appears in the clause; and  
(b) adding a new sub clause (4) to read as follows-

"(4) For purposes of bancassurance, "Financial Institution" means a company classified as a Bank under the Second Schedule to the Financial Institutions Act 2004 and licensed as a bank by the Central Bank and includes a commercial bank, merchant bank, mortgage bank and post office savings bank; or a company licensed by the Central Bank as a Micro Finance Deposit-Taking Institution under the Micro Finance Deposit-Taking Institution Act 2003;"

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**Justification**

To make bancassurance apply to HMOs.

- 2. Clause 4 should be deleted and replaced with the following-

**“(4) Meaning of “unauthorised business”.**

Subject to any exemption granted in accordance with this Act, a person carries on unauthorised business where the person carries on any business or activity for which a licence is required without a valid licence issued by the Authority.”

**Justification**

To prohibit the carrying on of unauthorised business as stipulated under ICP 4.1

- 3. Clause 5 should be deleted and replaced with the following-

**“(5) Meaning of insolvent”**

(1) An insurer or HMO is insolvent where the insurer or HMO does not meet the minimum solvency capital requirements prescribed in the Regulations.

(2) An insurance intermediary is insolvent if the value of its liabilities exceeds the value of its assets or is unable to pay its debts as they fall due for payment.”

**Justification**

- 1. The solvency requirements for the insurance companies are to be provided in the regulations; and
- 2. To categorically provide that a company is insolvent when it fails to pay its debts when they fall due.

- 4. Clause 7 is amended by-

(i) renumbering clause 7 as 7(1); and

(ii) inserting immediately after clause 7 the following-

“(2) Sub section (1) does not apply to a—

(a) foreign reinsurer that enters into a reinsurance contract with a licensed insurer or a retrocession agreement with a licensed reinsurer; or

(b) foreign insurer that carries on insurance business in accordance with an exemption granted by the Authority under section 33(4)

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5. Clause 8 is amended by deleting sub clause (1) and substituting the following-
- "(1) A mutual insurer may be formed in accordance with the Regulations."

**Justification**

To provide for the enactment of regulations that will provide the details for the formation of the mutual insurers.

6. Clause 9 is amended-
- (a) by deleting sub clause (1) and substituting the following-
- "(1) Subject to subsection (2) and to any exemptions specified in the Regulations, a person shall not, except with the prior written approval of the Authority, use the words "insurance", "assurance" or "reinsurance" or any derivations in English or any other language as part of his or her business name other than a licensee, provided that the name does not suggest that the licensee carries on any licensable business other than the business that it is authorised by its licence to carry on.
- (b) by inserting the following new sub clauses immediately after sub clause (2)
- "(3) All local risks and persons, including imports shall be insured by insurance companies licensed to carryout business in Uganda."
- (4) The regulations may prescribe other words or phrases to which subsection (1) applies.
- (5) A person who contravenes this section is liable to a fine not exceeding one thousand currency points."

**Justification**

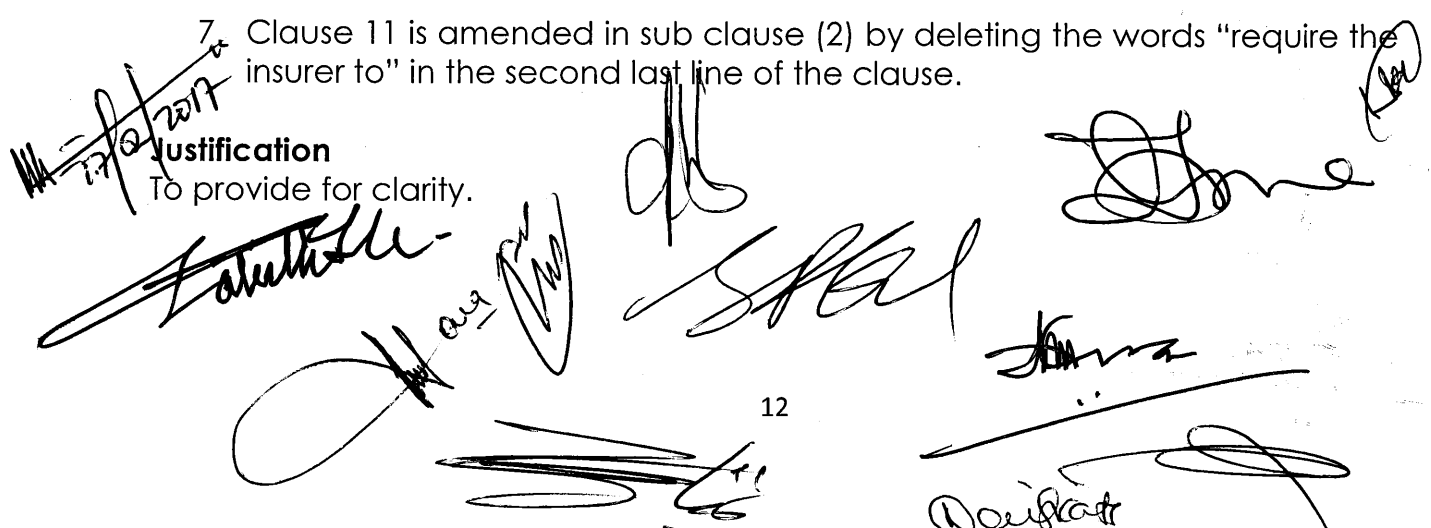
To provide for retention of local risks and to provide clarity to the clause

7. Clause 11 is amended in sub clause (2) by deleting the words "require the insurer to" in the second last line of the clause.

**Justification**

To provide for clarity.

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(b) the local or foreign supervisory authority undertakes to make such contribution towards the cost of exercising its powers as the Authority considers appropriate; and

(c) is satisfied that the local or foreign supervisory authority is subject to adequate legal restrictions on further disclosure of the information and documents and that it will not, without the written permission of the Authority—

(i) disclose information or documents provided to it to any person other than an officer or employee of the authority engaged in the exercise of any of its supervisory functions; or

(ii) take any action on information or documents provided to it.

(5) The Authority reserves the right not to provide the information requested.

(6) The Authority may share information with other supervisors and also inform them before taking any action that might reasonably be considered to affect group entities under their supervision and where prior notification is not possible, the Authority shall inform the relevant supervisors as soon as possible after taking action.

### Justification

To comply with ICP 3 that mandates the supervisor to have the legal authority and power, at its sole discretion and subject to appropriate safeguards, to exchange information with other relevant supervisors. The existence of an agreement or understanding on information exchange is not a prerequisite for information exchange.

10. Clause 14 is amended-

(i) In sub clause 2 by-

(a) deleting subsection (2)(a) and substituting the following-

"a representative of Uganda Retirements Benefits Regulatory Authority"

(b) in paragraph (d) by deleting the words "Institute of Uganda" and substituting the words "Training College"

(c) in paragraph (f) by deleting the words "two persons representing" and substituting the words "a representative of "

(d) by inserting a new paragraph (h) immediately after paragraph (g) to read as follows-

"(h) a representative of the Capital Markets Authority"

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- (ii) by inserting a new sub clause (3) immediately after sub clause (2) to read as follows-  
"The members shall elect from among their number a chairperson
- (iii) in sub clause (3) by deleting the words "The chairperson and the persons" appearing in the first line of the clause and substituting the words "The person"

**Justification**

1. The Insurance Institute of Uganda" is to be transformed into the "Insurance Training College with the mandate to train on insurance and to have the college have the same comparative advantage with the Kenyan model.
2. To provide for a representative of the Uganda Retirements Benefits Regulatory Authority and Capital Markets Authority to be on the board.
3. To give the members of the board the mandate to elect their chairperson.

(d) Clause 15 is amended by inserting the words "except a traffic offence" immediately after the word "offence"

**Justification**

Traffic offences are minor and should not be used to disentitle one from being a member of the Board.

11. Clause 16 is amended-

- (i) By deleting sub clause (1) and substituting the following-  
"(1) A member of the board shall hold office for three years from the date of appointment and is eligible for reappointment for only one term.
- (ii) In sub clause (2) by deleting the words "chairperson and"
- (iii) by deleting sub clause (3) and substituting the following-  
"(3) A member of the Board may, at any time, resign from his or her office in writing addressed to the Minister, giving notice of not less than one month."
- (iv) In sub clause (4)-
  - (a) by deleting the word "or" appearing in the last line in paragraph (f)
  - (b) by inserting the word "or" immediately after the word "Minister" appearing in the last line of the paragraph in paragraph (g). By inserting a new paragraph (h) immediately after paragraph (g) as follows-

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"(h) Where any of the grounds for disqualification under section 15 become applicable to a member subsequent to his or her appointment."

- (v) by inserting immediately after the new paragraph (h), the following new sub clause (5) as follows-
- "(5) If a member of the Board is or becomes aware that any of the grounds for suspension or removal specified in subsection (4)(e), (f), (g) or (h) apply to him or her, the member shall, within fifteen days, give written notice to the Minister and the Chairperson or, if the member is the Chairperson, the Deputy Chairperson."

**Justification**

To require notice to be given in writing

12. Clause 18 is amended-

- (i) By deleting sub clause (2)(a) and substituting the following-
- "(a) advise government on policy matters concerning insurance."
- (ii) In sub clause (2)(b) by inserting the words "establish the principal policies of the Authority and" immediately before the word "oversee"

**Justification**

To make the provision more clear and to make the establishment of the principal policies one of the functions of the board.

13. Clause 21 is amended by inserting a new sub clause (6) immediately after sub clause (5) as follows-

"(6) The Minister shall publicly disclose the reasons for the disqualification or removal of the Chief Executive Officer."

**Justification**

To comply with ICP 2.2 that provides that there should be explicit procedures regarding the appointment and dismissal of the head of the supervisor and members of its governing body where such a governing body exists. When the head of the supervisor or members of its governing body are removed from office, the reasons shall be publicly disclosed.

14. Clause 25 is amended-

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- (i) by deleting sub clause (3) and substituting the following-  
“(3) Notwithstanding anything contained in the Public Finance Management Act, 2015, all monies under subsection (1)(c),(d),(e) and (f) received by the Authority shall be retained by the Authority and used to offset the costs of administration and other expenditure.”
- (ii) by deleting sub clauses (4)

**Justification**

Sub clause (4) is incomplete and redundant.

15. Clause 26 is amended by deleting the word “Authority” and substituting the word “Board”

**Justification**

The principles of corporate governance demand that it is the board that should have regard to sound financial principles.

16. Clause 27 is amended by deleting the word “Board” and substituting the word “Authority”

**Justification**

The Authority is the organ that opens and operates the accounts.

17. Clause 33 is amended-

- (i) by inserting the word “ or HMO” immediately after the word “insurer” wherever it appears.
- (ii) by deleting sub clause (1) and substituting the following-  
“(1) Subject to subsection (4), a person shall not carry on, or purport to carry on, insurance business, reinsurance business or the business of an HMO in Uganda without a valid licence issued by the Authority.”
- (iii) By deleting sub clause (2) and substituting the following-  
“(2) A foreign insurer shall not occupy or operate an office in Uganda without the prior written approval of the Authority”
- (vi) by deleting sub clause (3) and substituting the following-  
“Notwithstanding subsections (1) and (2), the Authority may authorize the effecting of insurance with a foreign insurer in exceptional circumstances.”

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- (vii) by deleting sub clause (4) and substituting the following-
  - “(4) Subsection (1) does not apply to—
  - (a) a foreign reinsurer that enters into a reinsurance contract with a licensed insurer or a retrocession agreement with a licensed reinsurer; or
  - (b) a foreign insurer that carries on insurance business in accordance with an exemption granted by the Authority.
  
- (viii) by substituting for sub clause (6) the following-
  - “(6) A person who carries on, or purports to carry on, insurance business, reinsurance business or business as a HMO in contravention of this Act is liable to a fine not exceeding one thousand currency points.”
  
- (ix) by inserting a new sub clause as follows-
  - “A foreign insurer that contravenes subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding two thousand five hundred currency points.”

**Justification**

To comply with ICP 11 that requires the supervisor to impose corrective and preventive measures and where necessary impose sanctions based on objective and clear criteria in regard to enforcement.

18. Clause 34 is amended in sub clause (1)(a) by deleting the words “insurers” appearing in the last line and substituting the words “licensed insurers”

**Justification**

To comply with ICP 4 that requires all insurers to be licensed

19. Clause 35 is amended-

- (i) In the head note by deleting the words “health insurance organisations and”
  
- (ii) In sub clause (1) by deleting sub clause (1) and substituting the following-
  - “(1) A person proposing to carry on business as a health membership organisation shall apply to the Authority, in a prescribed form, for a licence, which application shall be considered by the Authority.”
  
- (iii) In sub clause (2) by-
  - (a) deleting the words “Health insurance organisations and”
  - (b) Inserting the words “licensed and”

**Justification**

To remove the mandatory obligation being placed on the authority to grant a license to applicants. The redrafted sub clause (1) gives the authority the mandate to consider the applications for grant of a license.

20. Clause 36 is amended-

- (i) by deleting sub clause (1) and substituting the following-  
“(1) A licensed insurer and a HMO shall have and maintain paid-up capital of not less than the amount prescribed in regulations.”
- (ii) By deleting sub clause (2)
- (iii) In sub clause (3) by deleting the words “directs otherwise” and substituting the words “otherwise approves in writing”
- (iv) By deleting sub clause (4)

**Justification**

The details of the requirements to be paid in relation to the capital requirements of the insurance companies should be provided for in the regulations.

21. Clause 37 is amended by deleting the words “financial institution” in sub clause (1) and substituting the words “a commercial bank approved by the Authority”

**Justification**

To be more specific and ensure accounts are opened in class A Banks.

22. Clause 38 is amended-

- (i) by inserting the words “or HMO” immediately after the word “insurer” wherever it appears.
- (ii) In sub clause (1) by deleting the words “in the following priority” and substituting the word “solely”
- (iii) In sub clause (1)(b) by deleting the words “with any remedial measures or enforcement powers exercised by the Authority in relation to the insurer”
- (iv) by deleting sub clause (2) and substituting the following-  
“A security deposit-  
    (a) shall be dealt with in accordance with the written directions of the Authority; and  
    (b) shall not be released except with the written permission of the Authority.

**Justification**

HMOs are also required to make security deposits and to provide clarity to the clause by drafting sub clause (2) better.

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For better drafting and to reduce the number of days the Authority has to communicate its decision in regard to the grant of an application.

28. Clause 45 is amended-

- (i) by deleting sub clause (1) and substituting the following-  
"The Authority may at any time vary, suspend or revoke the licence of an insurer to carryout business under this Act where-."
- (ii) In sub clause (1)(b)-
  - (a) inserting the word "and" immediately after the word "principles"; and
  - (b) by deleting the words "and ethics as prescribed by the Uganda Insurers Association and filed with the Authority"
- (iii) in sub clause (1)(c) by deleting the words "or that the net assets of the insurer are below the minimum prescribed paid up capital"
- (iv) by substituting for sub clause (1)(d) the following-  
"(d) the insurer is not in compliance with the capital adequacy requirements prescribed in regulations;"
- (v) by deleting sub clause (1)(e)
- (vi) by adding a new sub clause (9) immediately after sub clause (8) to read as follows-  
"The provisions of the Act continue to apply to an insurer, despite the suspension or revocation of its licence."

**Justification**

It is proper that insurers conduct their business on sound insurance principles and practices.

29. Clause 48 is amended-

- (i) In the head note by inserting the words "and other prudential" immediately after the word "adequacy"
- (ii) By deleting sub clause (2) and substituting the following-  
"(2) For the purposes of this section, capital resources has the meaning specified in the regulations made under sub section (3)."
- (iii) In sub clause (3) by inserting the words "and other prudential" immediately after the word "adequacy"

**Justification**

To cater for other prudential requirements to be prescribed in the regulations.

30. Clause 49 is deleted and substituted with the following-

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**"49. Technical provisions.**

An insurer and a HMO shall establish and maintain the technical provisions prescribed in regulations made by the Authority under section 48(3)."

**Justification**

Technical provisions is the term used in the ICPs. The term "reserves for outstanding claims" is not correct as it implies that the insurer must know a claim before a reserve is required.

31. Clause 50 is amended-

- (i) By deleting sub clause (1) and substituting the following-  
“(1) An insurer or a HMO shall comply with such requirements concerning investments as are specified in regulations made by the Authority.”
- (ii) By deleting sub clauses (2) and (3)

**Justification**

To provide clarity in the provision and the details contained in sub clauses (2) and (3) are matters to be provided in the regulations.

32. Clause 51 is amended in paragraph (b) by deleting the words "paid-up capital and other capital" and substituting the words "capital resources"

**Justification**

To comply with ICP 17 that mandates the supervisors to establish capital adequacy requirements for companies.

33. Clause 52 is amended by deleting clause 52 and substituting the following-

**"52. No reduction in share capital of insurer or HMO**

"An insurer or HMO shall not reduce its paid up share capital, or cause or permit its paid-up share capital to be reduced, without the prior written consent of the Authority and any resolution passed in contravention of this section is void and of no effect."

**Justification**

To comply with ICP 17.9 which requires any variations to the regulatory capital requirements imposed by the Authority to be made in a transparent framework.

34. Clause 53 is amended-

- (i) By deleting sub clause (1) and substituting the following-

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**Justification**

To provide for stronger regulation by the Authority and to provide for the HMOs that had been left out.

- 36. Clause 55 is amended by deleting the words "hold more than one-third of the shares of that company" and substitute the words "except as permitted by the Regulations"

**Justification**

To provide for flexibility in regulation by the Authority

- 37. Clause 56 is amended-
  - (a) by inserting the words "and HMOs" after the word "insurers" in the headnote.
  - (b) By inserting the words "or the prior written approval of the Authority-" immediately after the word "Act-"

**Justification**

The Authority should be able to give its approval on a case-by-case basis.

- 38. Clause 57 is amended-
  - (a) By deleting sub clause (1) and substituting the following-  
 "(1) An insurer or a HMO shall not make a distribution to any of its shareholders unless, immediately after the distribution the insurer or HMO complies with the capital adequacy requirements prescribed by the Authority in the regulations made under section 48(3) and all other prudential requirements applicable to the insurer or HMO."
  - (b) By deleting sub clause (3) and substituting the following-  
 "(3) An insurer or HMO that contravenes sub section (1) shall recover, from its shareholders the dividends paid to them and be liable to a fine not exceeding one thousand currency points."



**Justification**

To allow the companies make distributions to their shareholders provided that they comply with the capital adequacy requirements.

- 39. Clause 58 is amended by inserting a new sub clause (4) immediately after sub clause (3) as follows-

"(4) The insurer or HMO shall carry out ongoing review of suitability of the board members, senior management, key persons in control functions and significant owners."

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**Justification**

To make the law compliant with ICP 5.3 on going reviews on suitability of the board members, senior management and key persons in control functions and significant owners.

40. Clause 59 is amended-

- (a) By inserting the word "or HMO" immediately after the word "insurer" wherever it appears in the clause;
- (b) By deleting sub clause (2);
- (c) In sub clause (3)(a) by adding the words "as prescribed in schedule 2" immediately after the word "person"
- (d) In sub clause (3)(b) by inserting the words "without the prior written approval of the Authority" immediately after the words "in Uganda"
- (e) By inserting a new sub clause (5) immediately after sub clause (4) to read as follows-  
 "(5) The board of directors of an insurer or a HMO has ultimate responsibility for the business and affairs of the insurer or HMO and for ensuring its effective organization."

**Justification**

- 1. To cover all licensees and to avoid cross directorship in licensees
- 2. Sub clause (2) is provided for under clause 103(2), there is therefore no need to have it under this clause.
- 3. To make the board have ultimate responsibility for the business and affairs of the insurer or HMO

41. Clause 61 is amended-

- (a) In sub clause (1) by inserting a new paragraphs (e) and (f) immediately after paragraph (d) as follows-  
 "(e) such other control functions as may be specified in regulations made under this Act; and  
 (f) such other functions as the insurer considers appropriate for the nature, scale and complexity of its insurance business."

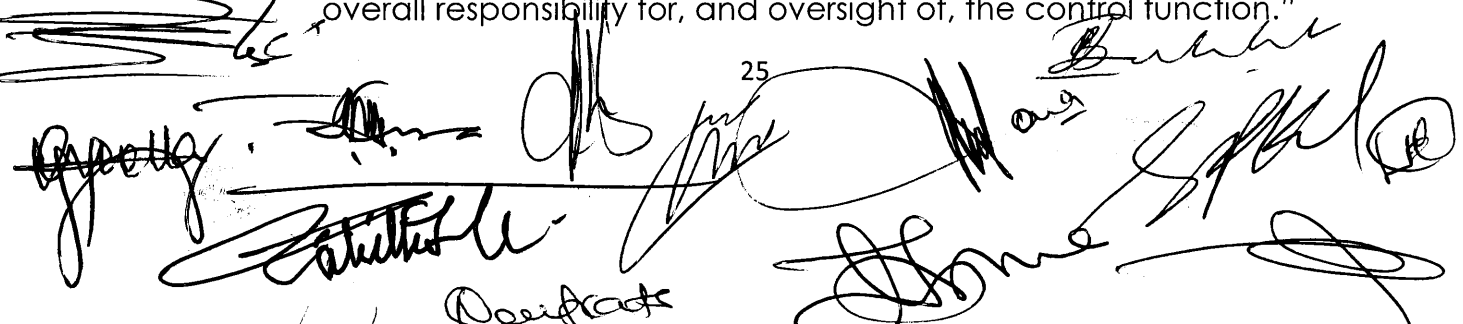
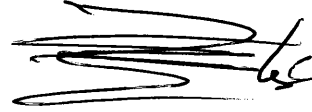
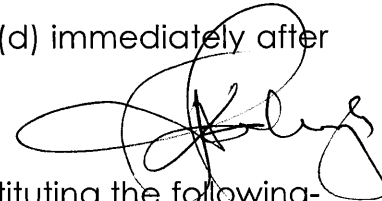
(b) In sub clause (2) by adding a new paragraph (d) immediately after paragraph (c) to read as follows-

"(d) internal audit function"

(c) by deleting sub clauses (3)(b) and (c) and substituting the following-

- "(b) appoint an individual to—
- (i) undertake the responsibilities of each control function; or
- (ii) where the responsibilities of the control function are to be undertaken by more than one employee or to be outsourced, have overall responsibility for, and oversight of, the control function."

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**Justification**

For clarity

42. Clause 62 is amended by deleting sub clause (2)(d) and substituting the following-

“(d) provide for the effective identification and management of insurance risk, credit risk, liquidity risk, market risk, operational risk, reputational risk and such other risks as the Authority may, by regulations, determine”.

**Justification**

To cater for other risks that may emerge that are not specifically numerated in the Act.

43. Clause 63 is amended by deletion and substituting the following-

“63. Payment of premium.

(1) Subject to subsection (2), the insured shall pay in full the premiums payable under the insurance contract on or before the date of inception of the policy or renewal of the policy”

(2) The Authority may by regulations provide for the payment of premiums in any other manner.”

**Justification**

The premium should be payable on or before the inception of the policy.

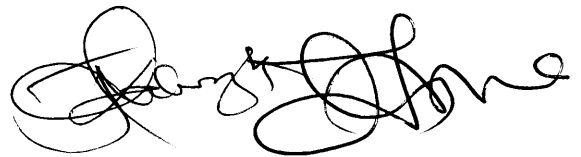
44. Clause 64 is amended-

(a) By deleting sub clause (1) and (2) and substituting the following-

“(1) An insurer or HMO shall not issue any policy of insurance if the premium rates and commission rates contravene any regulations made by the Authority under subsection (2).

(2) The Authority may prescribe minimum premium or maximum commission rates for any class or type of insurance business.”

(b) by deleting sub clause (3)

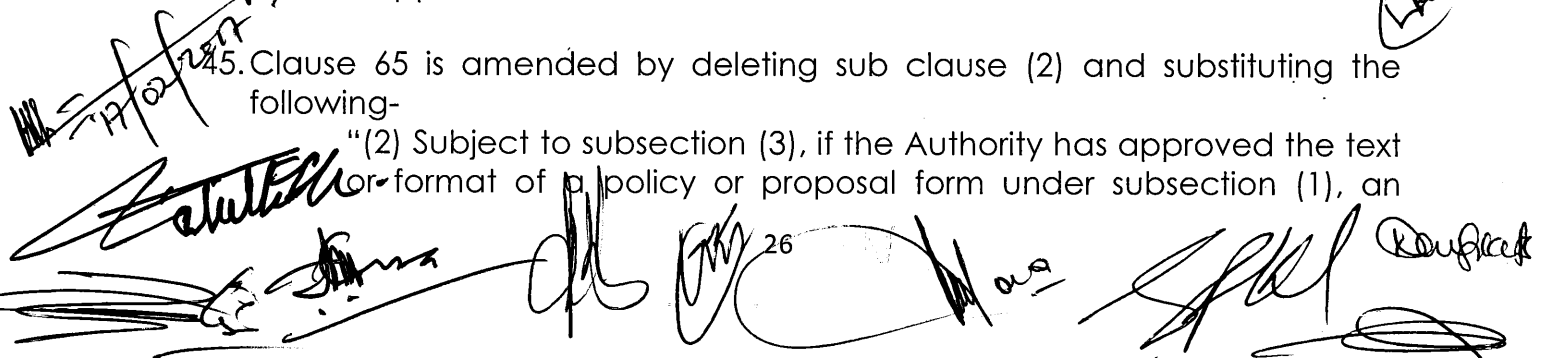


**Justification**

Requiring the approval of the Authority for all premiums and commission rates is an out-dated approach that is neither consistent with the ICPs or risk based.

45. Clause 65 is amended by deleting sub clause (2) and substituting the following-

“(2) Subject to subsection (3), if the Authority has approved the text or-format of a policy or proposal form under subsection (1), an



insurer or HMO shall not make any amendment to the policy or proposal form without the prior written approval of the Authority.

(3) Where the Authority does not approve or reject the text or format of a policy or proposal form, or an amendment in the text or format within the prescribed period, the insurer shall treat the text or format of the policy or the proposal form or amendment as approved."

**Justification**

For clarity and to give the Authority the mandate to reject the text, format of the policy or proposal form.

46. Clause 66 should be deleted and substituted with the following-

"(1) Where an insurer lowers the approved premium rates without the approval of the Authority, the Authority may order the cancellation of the policy issued under the altered premium rates, and a pro-rata refund of the premium in respect of the unexpired period of the risk shall be paid to the insured.

(2) Where an insurer lowers the approved premium rates without the approval of the Authority, the Authority may require the company to offer adequate refund to the insured."

**Justification**

Policyholders affected by the cancellation should be adequately compensated.

47. Clause 67 should be deleted and substituted with the following-

**"67. Reinsurance arrangements.**

(1) A licensed direct insurer, HMO and a micro insurance organisation shall have such arrangements as it considers appropriate for the reinsurance of risks under insurance contracts that it has entered into in the course of its business as an insurer or a micro insurance organisation.

(2) A licensed direct insurer, HMO and a Micro insurance organisation shall not, without the prior written authorisation of the Authority under subsection (3), enter into a reinsurance contract, as cedant, other than—

- (a) with a licensed reinsurer;
- (b) with a qualifying foreign reinsurer; or
- (c) in accordance with such arrangements, as may be specified in the Regulations.

(3) The Authority may, on the application of a licensed direct insurer, HMO or a micro insurance organisation, authorise the

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insurer, HMO or micro insurance organization to enter into a reinsurance contract, as cedant, with—

- (a) a foreign direct insurer; or
- (b) a foreign reinsurer that is not a qualifying foreign reinsurer.

(4) The Regulations may specify requirements in relation to the reinsurance arrangements of licensed direct insurers and micro insurance organizations and the retrocession arrangements of licensed reinsurers, including by-

- (a) requiring-
  - (i) licensed direct insurers and micro insurance organisations to provide the Authority with prior written notice of their reinsurance arrangements;
  - (ii) licensed reinsurers to provide the Authority with prior written notice of their retrocession arrangements; and
  - (iii) the approval of the Authority with respect to certain specified reinsurance or retrocession contracts or arrangements;

(b) imposing restrictions on the reinsurance or retrocession of risks with foreign insurers; and

(c) specifying requirements in relation to the reinsurance arrangements of licensed direct insurers and micro insurance organisations and the retrocession arrangements of licensed reinsurers."

### Justification

To providing for risk transfer strategies, appropriate to the nature, scale and complexity of their business and which are part of their wider underwriting and risk and capital management strategies to comply with ICP 13.

48. Clause 68 is amended-

(a) in the headnote by inserting the words "or cancellation" immediately after the word "modification"

(b) by deleting sub clause (1) and substituting the following-  
"(1) An insurer or HMO shall inform the Authority within five working days of any modification or cancellation in the amount of its net retention in all classes of business which it undertakes."

(c) in sub clause (3) by inserting the words "or HMO" immediately after the word "insurer" on the third line of the clause.

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**Justification**

To provide for cancellation in insurer's net retention and to reduce the number of days within which the Authority should be informed by the insurer or HMO of any modification or cancellation of their net retention.

49. Clause 69 should be deleted and substituted with the following-

**"69. Annual reinsurance returns.**

An insurer and a reinsurance company licensed under this Act shall within ninety days from the end of the calendar year submit to the Authority in a prescribed form, details of the reinsurance or retrocession returns and details of the reinsurers or retrocessionaires with whom they maintain business relations in respect of risks falling within the scope of this Act."

**Justification**

The 90 days should run from the end of the calendar year

50. Clause 71 should be deleted and substituted with the following-

**"71. Modifications where terms of reinsurance contracts not favourable.**

The Authority may after the scrutiny of a proposed reinsurance contract direct an insurer, in writing-

- (a) not to enter into or renew the contract unless specified modifications are made to the terms and conditions of the contract;
- (b) not to renew the contract, if the terms and conditions of the contract are not favourable to the insurer or are not in the interest of the economy of Uganda or the insurance industry or are not in the public interest."

**Justification**

To enable the Authority direct modification of the reinsurance contract.

51. Clause 72 is amended by deleting the word "broking"

**Justification**

The Companies are known as insurance companies and not insurance broking companies.

52. Clause 73 is amended-

- (a) By deleting the headnote and substituting the following-  
"Foreign reinsurers' representatives"

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(b) In sub clause (1)-

- (i) by deleting the words "reinsurance company" and substituting the word "reinsurer";
- (ii) by deleting the word "authority" in the first line and substituting the word "approval"

(c) in sub clause (2) by deleting the word "authority" appearing after the word "granting" and substituting with the word "approval"

(d) in sub clause (3)-

- (i) by deleting the word "authority" appearing after the word "Where" and substituting the word "approval"
- (ii) By deleting the words "reinsurance company" and substituting the word "reinsurer"

**Justification**

For clarity

53. Clause 74 is amended-

(a) By deleting sub clause (1)(c) and substituting the following-  
"(c) Uganda Re, a minimum of fifteen percent of its reinsurance of its treaty and facultative cessions."

(b) By deleting sub clause (3) and substituting the following-  
"(3) An insurer or reinsurer who fails to comply with subsection (1) is liable to a fine to be prescribed by Regulations."

(c) in sub clause (5), by inserting the word "national" immediately after the words "of the" in the first line.

**Justification**

To enable quick administrative action by IRA to deter further contravention and to provide clarity to the clause

54. Clause 76 is amended in sub clause (1) by deleting the words "one of which is licensed under this Act"

**Justification**

To provide clarity to the clause.

55. Clause 82 is amended in sub clause (2) by deleting the words "For the purposes of subsections (1) and substituting the words "Without limiting subsection (1)"

**Justification**

To broaden the prohibition provided for under clause 82(1)

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56. Clause 83 is amended in sub clause (1) by deleting paragraph (h).

**Justification**

Third party administrator license is not an insurance intermediary.

57. Clause 84 is amended-

(a) in the headnote by inserting the words "or reinsurance" immediately after the word "insurance";

(b) by inserting the words "or reinsurance" immediately after the word "insurance" in the second line of the clause.

**Justification**

To have reinsurance companies carrying on business in Uganda to be incorporated under the Uganda Companies Act, 2012.

58. Clause 85 is amended-

(a) by deleting sub clause (3) and substituting the following-

"(3) The Authority shall not grant a licence or renew an insurance intermediary's licence if the applicant is not a fit and proper person within the meaning of Schedule 2 to the Act."

(b) by adding a new sub clause (6) immediately after sub clause (5) to read as follows-

"(6) Every insurance intermediary shall establish and maintain the following control functions—

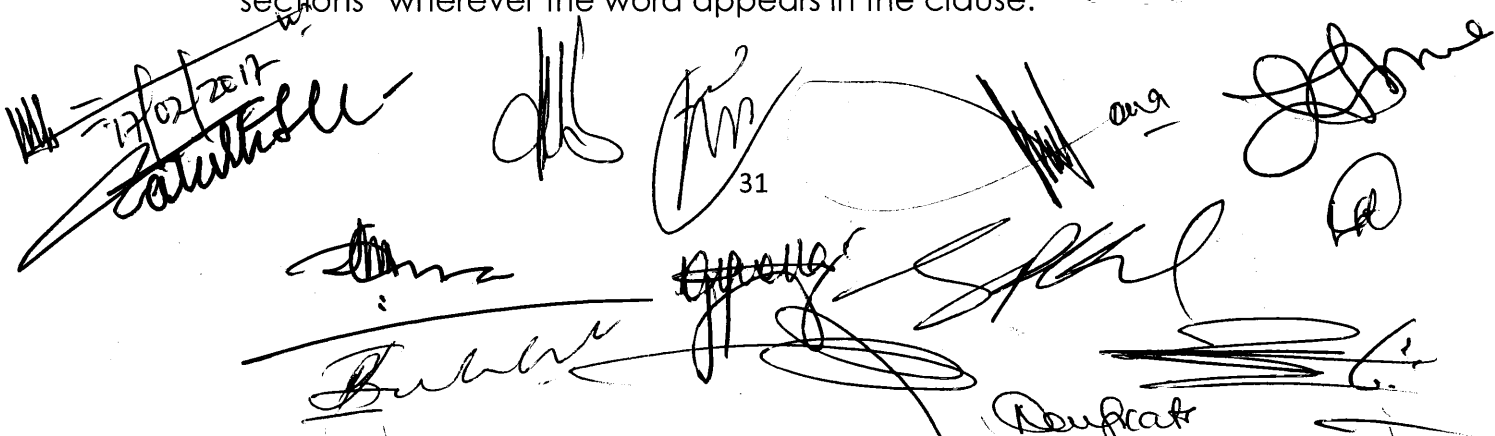
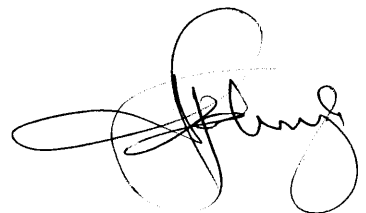
(a) a risk management function; and

(b) a compliance function."

**Justification**

To comply with ICP 18 that mandates the supervisor to ensure the intermediaries carryout their business in a professional way.

59. Clause 88 is amended by inserting "58" immediately after the word "sections" wherever the word appears in the clause.



**Justification**

The provision should apply to section 58 of the bill.

60. Clause 89 is amended-

(a) in the headnote by deleting the words "certain insurance intermediaries" and substituting the words "insurance and reinsurance brokers";

(b) by deleting sub clause (1) and substituting the following-

"(1) Every insurance broker and reinsurance broker shall not carry on the business of insurance broking unless it maintains at all times while carrying on that business a paid-up capital as stipulated in the regulations and shall furnish the Authority with proof of registration of the Authority's lien on the deposit".

61. Clause 90 should be deleted

**Justification**

The details of the remuneration of intermediaries should be provided for under the regulations.

62. Clause 91 is amended-

(a) by inserting the words "or HMOs" immediately after the word "insurer" wherever it appears in the entire clause;

(b) by deleting sub clause (3) and substituting the following-

"(3) An insurance broker or an insurance agent who receives any premiums whether in full or installments or other monies in cash, shall immediately but not later than the next working day from the date of receipt, without any deductions of commissions or otherwise remit the premiums or money in cash to the insurer."; and

(c) in sub clause (7) by deleting the words "commits an offence and shall on conviction be"

**Justification**

To include HMOs in the regulation and to allow for prompt and appropriate action to be taken by the Authority which will enhance regulation.

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63. Clause 93 is amended in sub clause (5)-

(a) by inserting the words "suspend or" immediately after the words "Authority may" in the second line; and

(b) inserting the words "in case of revocation." immediately after the word "transfer" in the last line

**Justification**

To allow the Authority suspend those insurance intermediaries that may not comply with the provision.

64. Clause 95 is amended in sub clause (2) by deleting the words "five thousand" and substituting the words "five hundred"

**Justification**

The penalty is excessive for loss assessors and loss adjustors

65. Clause 96 is amended-

(a) in sub clause (1)(b) by deleting the word "cancel" and substituting the words "vary, suspend or revoke";

(b) in sub clause (2) by inserting the words "vary" immediately after the word "fines"; and

(c) in sub clause (2)(i) by adding the words "of competent jurisdiction"

**Justification**

To enable the Authority to have the power to vary, suspend or revoke a licence and to provide for clarity under clause (2)(i)

66. Clause 100 is amended by deleting sub clause (2) and substituting the following-

"(2) The micro insurance organisations and insurance agents may, by statutory instrument be exempted from the application of this Part."

**Justification**

The ICPs require the supervisor to be independent. Constant referral to the Minister does not depict that independence.

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67. Clause 101 is amended-

(a) in sub clause (2)(a) by deleting the words "increase or reduce the person's shareholding" and substituting the words "significantly increase or reduce the person's control";

(b) immediately after sub clause (2), insert a new sub clause (3) to read as follows and the clause be renumbered-

"(3) For the purposes of subsection (2) (a), regulations made under this Act shall specify the circumstances in which an increase or reduction in a person's control is significant".

### Justification

The definition of substantial shareholder does not comply with the ICPs and it is important that the Authority has the power to issue a directive to a substantial shareholder requiring the shareholder, for example to dispose of the shares held, or some of them, as this represents an interference with property rights, it is considered essential that it is provided for in the primary legislation, not regulations.

68. Insert a new clause immediately after clause 101 as follows-

### "Authority's powers concerning significant owners

(1) The Authority may issue a directive under subsection (3) to—

(a) a person who becomes a significant owner in, or acquires increased control over, a licensee without obtaining the Authority's prior written approval; or

(b) a person who is a significant owner of a licensee if the Authority has reasonable grounds for believing that—

(i) the person does not satisfy its fit and proper criteria; or

(ii) by virtue of the person's significant ownership in, or control over, the licensee, any of the factors specified in subsection (2) apply.

(2) The factors referred to in subsection (1)(b)(ii) are that the licensee's ownership structure—

(a) is not appropriate having regard to the nature, scale and complexity of its licensed business;

(b) adversely affects its financial soundness or the ability of the Authority to supervise it; or

(c) is prejudicial to its customers.

(3) If any of the circumstances specified in subsection (1) apply, the Authority may issue a directive to the person—

(a) requiring the person to dispose of the person's interest in the licensee, in whole or in part, within such time period as is specified in the notice; or

(b) prohibiting the person from exercising any rights, including voting rights, attached to the interest.

(4) Where the Authority issues a directive under subsection (3)(a) to a person, it may direct that during the period before the person's interest is disposed of, the person is prohibited from exercising any rights, including voting rights and the rights to receive a distribution, attached to the interest.

(5) Section 106, 107 and 111 apply in relation to any disposal to be made in compliance with a directive issued under subsection (1).

(6) A person who, without reasonable excuse, fails to comply with the requirements of a directive issued under this section commits an offence and is liable on conviction to a fine not exceeding one thousand currency points.

### Justification

To empower the Authority with powers to issue directives to significant owners and to require the significant owners to comply with the requirements for the fit and proper test.

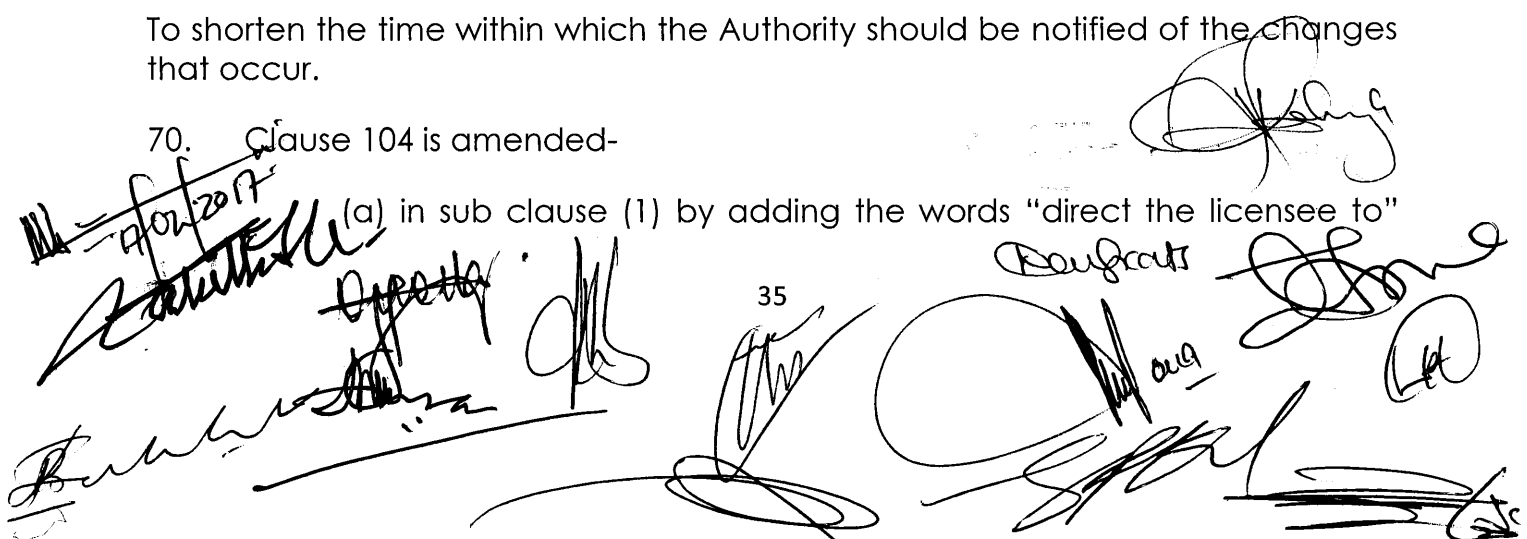
69. Clause 103 is amended in sub clause (2) by deleting the word "fifteen" and substituting the word "ten"

### Justification

To shorten the time within which the Authority should be notified of the changes that occur.

70. Clause 104 is amended—

(a) in sub clause (1) by adding the words "direct the licensee to"



immediately after the words "by written notice"

(b) in sub clause (1)(a) by deleting the words "direct the removal of that person and to" and substituting the words "remove that person and"

(c) by deleting sub clause (2)(d) and substituting the following-

"(d) a person undertaking any function for a licensee specified by regulations for the purpose of this section."

(d) by inserting new sub clauses (5) and (6) as follows-

"(5) If a licensee becomes aware of any information that is reasonably material to the Authority's fit and proper assessment of the person concerned, it shall notify the Authority of the information as soon as reasonably practicable.

(6) A licensee that contravenes subsection (5) commits an offence and is liable to a fine not exceeding five hundred currency points."

### Justification

1. For better drafting;
2. It is a known fact that Statutory Instruments are usually made by the Minister therefore there is no need to have the word specifically stated; and
3. To provide a requirement for the licensee to notify the Authority if it becomes aware that a director, senior manager etc. is not fit and proper.

71. Insert a new clause to read as follows-

#### **"Information to be furnished by an insurer or HMO.**

(1) An insurer or HMO shall prepare and cause to be submitted to the Authority an audited balance sheet within four months after the end of its financial year.

(2) An insurer or HMO shall exhibit throughout the year, in a conspicuous place in each of its offices and branches, and shall publish in a local newspaper of general circulation within four months after the end of its financial year the following-

(a) a copy of the Auditors Report.

(b) a statement of financial position clearly indicating the

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names and signatories of the Directors.

(c) a statement of comprehensive income

(d) the companies own statement of comprehensive income and financial position before consolidating its performance with other sister companies.

(e) solvency ratios, claims ratios and management expense ratios for the current and previous year.

### Justification

To modify and provide for the publication and display of the copy of the auditor's report; a statement of the financial position clearly indicating the names and signatories of the Directors; a statement of comprehensive income; solvency ratios, claims ratios and management expense ratios for the current and previous year.

72. Clause 105 is amended in sub clause (4) by deleting the words "default civil" in line two of the clause.

### Justification

They are redundant words

73. Clause 106 is amended-

(a) in sub clause (1) by inserting the words "risk advisors" immediately after the words "loss adjustor"

(b) in sub clause (3) by deleting the words "and any other financial reporting standards prescribed by regulations under this Act" and substituting the words "as adopted by the Institute of Certified Public Accountants in Uganda"

### Justification

1. To include risk advisors to the list.
2. The Council of ICPAU is empowered under section 12(i) of the Accountants Act, 2013 to issue and adopt international accounting and auditing standards and promote their usage in Uganda and make suitable adaptation where necessary.

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74. Clause 107 is amended-

(a) by deleting the word "insurer" wherever it appears in the clause and substituting the word "licensee"

(b) by deleting paragraph (c) of sub clause (3) and substituting the following-

"(c) be an accounting firm or practicing accountant licensed by the Institute of Certified Public Accountants of Uganda."

(c) by adding a new paragraph (e) to read as follows-

"(e) the audit has been conducted in accordance with the international standards on auditing as adopted by the Institute of Certified Public Accountants of Uganda."

**Justification**

1. The requirements are applicable to the licensees and not the insurers.
2. A person cannot act as an auditor without a valid license and/or a certificate of practice issued by the Institute of Certified Public Accountants of Uganda.

75. Clause 108 is amended in sub clause (1) by inserting the words "to which section 106 applies" immediately after the words "a licensee" on the first line.

**Justification**

The section is intended to apply to those licensees specified under section 106.

76. Clause 109 should be deleted and substituted with the following-

**"109. Financial statements**

(1) Every licensee shall prepare and submit to the Authority, within three months from the end of each financial year in a prescribed form, annual reports containing-

(a) prescribed particulars relating to all financial transactions undertaken by it during that year including, where applicable, a directors certificate, financial condition report;

(b) a certified true copy of its financial statements, an auditor's certificate and any reports presented to

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shareholders;

(c) returns that shall be in the prescribed form in the regulations;

(d) auditor's report;

(e) any report on the affairs of the licensee made to its shareholders in respect of the financial year;

(f) details of commission scales and incentive plans, bonuses or other incentives;

(g) a statement detailing premiums which remain unpaid by the insured; and

(h) any other information that the Authority may require as may be specified in the Regulations.

(2) A licensee shall, in respect of and within such periods as may be specified in regulations made under this Act, submit to the Authority—

(a) periodic financial statements, that may be unaudited;

(b) a return in the form approved by the Authority, if any; and

(c) such other information and documentation as may be specified in the regulations."

(3) Every intermediary to which section 106 applies shall, in accordance with international financial reporting standards adopted by the Institute of Certified Public Accountants of Uganda, keep proper books and submit to the Authority such annual and periodic returns and documents as the Authority may, by regulations, require to be submitted to it within the time period specified in the regulations.

(4) Where the Authority considers that financial statements or documents submitted by a licensee under this section are inaccurate or incomplete or that they are not prepared in accordance with accounting standards, the Authority may reject the financial statements or documents.

(5) Where the Authority rejects financial statements or documents under subsection (4), the Authority shall issue appropriate directives

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to the licensee to rectify the inaccuracy or incompleteness and resubmit the financial statements or documents, and if the licensee does not comply with the directive the Authority may amend the financial statements or documents at the cost of the licensee”.

**Justification**

To make the law comply with ICP 9 that requires the supervisor to take a risk-based approach to supervision that uses both off-site monitoring and on-site inspections to examine the business of each insurer, evaluate its condition, risk profile and conduct, the quality and effectiveness of its corporate governance and its compliance with relevant legislation and supervisory requirements. The supervisor obtains the necessary information to conduct effective supervision of insurers and evaluate the insurance market.

77. Clause 110 is should be deleted.

**Justification**

The concept of a solvency margin is a term that is not used in modern risk based insurance supervision. Under a modern risk-based prudential framework, insurers are required to hold capital based on risk. Furthermore, section 48 already establishes a capital-based framework. The solvency margin methodology is wholly inconsistent with the capital based approach established in section 48.

78. Clause 111 is amended by deleting sub clause (2) and substituting the following-

“(2) The Authority may require that the group financial statements are audited by the auditor of the licensee or by another auditor authorized by the Institute of certified Public Accountants of Uganda and approved by the Authority in writing.”

**Justification**

A person cannot act as an auditor without a valid license and/or a certificate of practice issued by the Institute of Certified Public Accountants of Uganda.

79. Clause 113 should be deleted and substituted with the following-

(1) Subject to subsection (5), a licensed insurer or HMO shall appoint and at all times have an appointed actuary who may be an external or internal actuary.

(2) A licensed insurer or HMO shall within two months after a person ceases to be its appointed actuary, or such longer period as is

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permitted by the Authority, appoint another person to be its appointed actuary.

(3) A licensed insurer or HMO shall not appoint a person as appointed actuary under subsection (1) or (2) unless—

(a) the person is a qualified actuary; and

(b) the Authority has given its prior written approval to the person's appointment as actuary of the insurer or HMO.

(4) The Authority shall not approve the appointment of a person as actuary of a licensed insurer unless it is satisfied that the person is qualified, has sufficient experience and is competent to act as actuary for the insurer or HMO.

(5) The regulations may exempt specified types and descriptions of micro insurance organisations and of non-life direct insurers from the requirement to have an appointed actuary.

(6) Subject to subsection (7), a licensed insurer or HMO that contravenes subsection (1) or (2) commits an offence and is liable to a fine of not exceeding one thousand currency points.

### Justification

To ensure that licensed insurer have actuaries who are appointed by the insurers with the approval of the Authority to ensure that the insurance companies are properly managed.

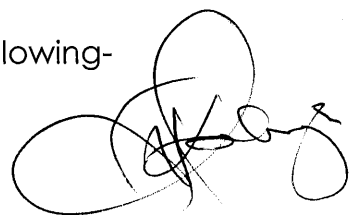
80. Clause 114 should be deleted and substituted with the following-

#### **"114. Actuarial investigation and actuarial report**

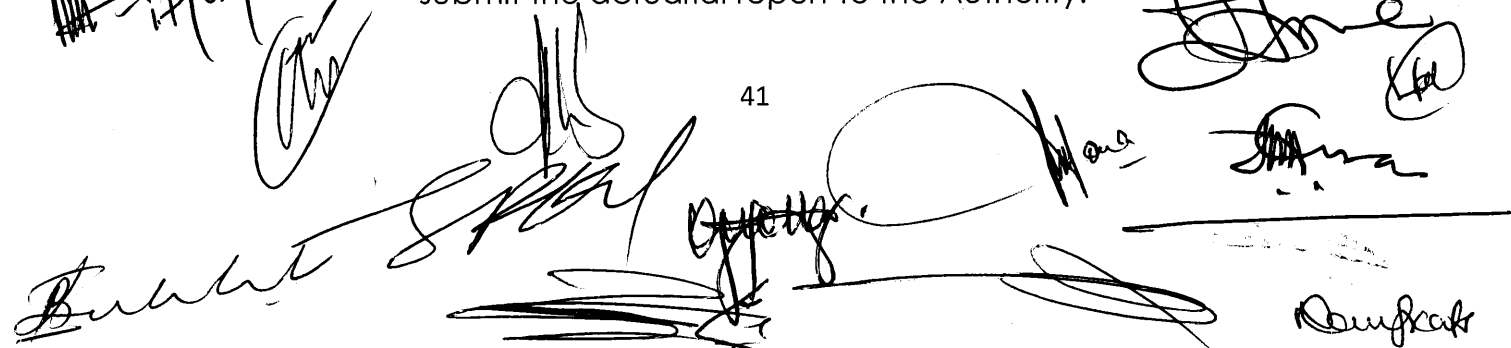
(1) A licensed insurer or HMO shall—

(a) ensure that its appointed actuary undertakes an actuarial review of its business and, if required by the regulations or the Authority, a group actuarial review, in respect of each financial year; and

(b) take all reasonable steps to ensure that the appointed actuary prepares a written actuarial report complying with the regulations within sufficient time for the insurer or HMO to submit the actuarial report to the Authority.



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(2) A licensed insurer or HMO shall ensure that the appointed actuary has access to all documents and records that the actuary requires to carry out an actuarial investigation and to prepare the report.

(3) The appointed actuary is entitled to require from a director or an employee of the insurer or HMO such information and explanations as the appointed actuary thinks necessary for the performance of the duties of an actuary.

(4) A licensed insurer or HMO that contravenes subsection (1) commits an offence and is liable to a fine of not exceeding one thousand currency points.

**Justification**

To give the appointed actuary the mandate to carry out actuarial reviews of the insurance business including actuarial investigations.

81. Clause 115 should be deleted.

**Justification**

The Accountants Act provides for a more detailed procedure of regulating the accountants. It is not necessary that such regulation should be brought under this Act.

82. Clause 116 should be deleted and substituted with the following-

**"116. Authority to inspect licensees.**

(1) The Authority shall inspect the affairs of every licensee at least once in three years.

(2) The Authority may, at any time, for the purpose of performing its function under sub section (1)-

(a) inspect the premises and the business, including the procedures and controls, of a licensee or a subsidiary or holding company of a licensee;

(b) inspect any premises or business of a person to whom a licensee has outsourced any functions or activities;

(c) inspect the assets, including cash, belonging to or in the possession of or control of a licensee or any of its subsidiaries

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or holding companies;

(d) examine and make copies of documents belonging to or in the possession or control of a licensee, any of its subsidiaries or holding companies; or

(e) seek information and explanations from the officers, employees, agents and representatives of a licensee or any of its subsidiaries or holding companies.

(3) The Authority may, at any time before the expiry of three years, inspect the affairs of a licensee if it has reason to believe that the-

(a) interests of the policyholders, shareholders or members of the public could be prejudiced;

(b) licensee is unable to meet his or her obligations under the Act;

(c) licensee has not complied with the provisions of this Act;

(d) licensee is not complying with anti-money laundering and combating financing of terrorism laws; (e) any other reason.

(4) The Authority may appoint competent persons to carry out the inspection on its behalf.

(5) The person appointed to inspect under this section may question any officer of the licensee under oath.

(6) The licensee shall cooperate with the person appointed to inspect under this section by providing him or her full access to books, records, files and other documents which are relevant to the inspection, and any person who fails to cooperate commits an offence.

(7) The Authority shall inform the licensee of the conclusions reached following the inspection and may require the licensee to comply, within a period it may specify, with any directive it may issue to remedy defects disclosed by the inspection.

(8) The Authority shall give reasonable notice to the licensee or other person of its intention to exercise its powers under this section except that where it appears to the Authority that the circumstances so justify, the Authority may exercise its powers without giving notice of its intention to do so.

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(9) A person who prevents the Authority or an inspector from performing the duties under this section commits an offence and is liable to a fine not exceeding one thousand currency points.

### Justification

For clarity and to provide for a higher contravention penalty.

83. Insert a new clause to read as follows-

#### **" Notice to provide information or produce documents**

(1) Where reasonably required by the Authority for the performance of its functions under this Act or any other written law, the Authority may, by notice in writing given to a person specified in subsection (2), require the person to—

(a) provide specified information or information of a specified description; or

(b) produce specified documents or documents of a specified description.

(2) A notice under subsection (1)—

(a) may be issued to a—

(i) a licensee;

(ii) a former licensee;

(iii) a person the Authority reasonably believes to be carrying on, or to have at any time carried on, unauthorised business;

(iv) a related party in relation to a person specified in subparagraph (i), (ii) or (iii); or

(v) to any person who the Authority reasonably believes is in possession of the information or documents; and

(b) shall specify the place where and the period within which the information or documents shall be provided or produced.

(3) The Authority may require—

(a) any information or documents provided or produced

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under this section to be—

(i) provided or produced in such form as the Authority may specify; and

(ii) verified or authenticated in such manner as the Authority may reasonably specify;

(b) that the information is to be provided to, or the documents are to be produced to, a person specified in the notice; and

(c) that the person to whom the notice is issued, or a person who is or has been a director, auditor or actuary shall provide such explanations relating to the information or documents as the Authority may reasonably require.

(4) The Authority may take copies or extracts of any document produced under this section.

(5) Where a person claims a lien on a document, its production under this section is without prejudice to that lien.

(6) A person who, without reasonable excuse, fails to comply with a notice issued under this section commits an offence and is liable on conviction to a fine of not exceeding one thousand five hundred currency points.

### Justification

To mandate the Authority to require the provision of information and documents.

84. Clause 118 is amended by deleting paragraph (a) and substituting the following-

“(a) the licensee has breached or is likely to breach solvency control levels specified in regulations made under section 48(3);”

### Justification

To comply with ICP 10 and 17 where the terminology used is solvency control level

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85. Clause 119 is amended-

(a) by deleting sub clause (1) and substituting the following-

"(1) A licensee shall, within such period as the Authority may require the licensee, provide a recovery plan to the Authority."

(b) by inserting the words "no longer meets the purpose or requirements upon which it was approved" immediately after the words "recovery plan" in the second line.

### Justification

To provide clarity to the clause

86. Clause 121 is amended-

(a) by deleting sub clause (1) and substituting the following-

(1) Where the Authority-

(a) has reasonable grounds to believe that-

(i) the licensee has departed substantially from the most recent business plan submitted to the Authority;

(ii) the governance structure of the licensee is no longer appropriate having regard to the nature, scale and complexity of its business and the risks to which it is exposed;

(iii) one of the grounds specified in section 118 applies to the licensee; or

(b) whether as a result of inspection or otherwise, has identified a matter that, in its opinion, represents a supervisory risk,

the Authority may issue a directive for the better carrying into effect the provisions of this Act.

(b) by inserting a new sub clause (3) to read as follows-

"(3) A licensee that fails to comply with a directive issued under this section is liable to a fine not exceeding one thousand currency points."



**Justification**

To provide for more grounds for which directives may be issued, including requiring a recovery plan and to provide for a penalty for contravention of the clause.

87. Insert the following new clauses immediately after clause 121 to read as follows-

**"123. Appointment of investigator**

(1)The Authority may appoint one or more competent persons as an investigator to conduct an investigation on its behalf—

(a)with respect to a licensee if it considers that there are grounds for the Authority to—

(i) require a recovery plan;

(ii) issue a directive;

(iii) apply to the Court for a protection order; or

(vi) the Authority is of the opinion that it is desirable to appoint an investigator in the interests of the customers or creditors or potential customers or creditors of the licensee or in the public interest; and

(b) with respect to any person if it appears to the Authority on reasonable grounds believes that the person is carrying on, or has carried on, unauthorised business.

(2)The matters investigated by an investigator appointed under subsection (1) may include—

(a) the nature, conduct or financial condition of the person's business;

(b) a particular aspect of the person's business;

(c) the ownership or control of the person being investigated;

(d) in the case of a licensee, whether there are grounds for taking any of the actions specified in subsection (1)(a)(i) to (iv);

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(e) whether the person is carrying on, or has carried on, unauthorised business.

(3) The Authority may give directions to the investigator concerning any one or more of the following—

- (a) the scope of the investigation;
- (b) the period for the conduct of the investigation;
- (c) the conduct of the investigation; and
- (d) the manner in which the investigator shall report to the Authority.

(4) Where an investigator is appointed with respect to a former licensee, an investigation under subsection (2) shall extend only to—

- (a) in the case of paragraphs (a) and (b), the person's business carried on at any time when the person was a licensee; and
- (b) in the case of paragraph (c), to the ownership or control of the person at any time when the person was a licensee.

(5) An investigator shall submit a report of his or her investigation to the Authority.

(6) The Authority may direct that the licensee pay the costs, or such part of the costs as it may specify, of an investigation conducted under this section.

(7) The Regulations may provide for the—

- (a) notice to be given to a person to be investigated under this section;
- (b) conduct of an investigation;
- (c) powers of an investigator appointed under this section; and
- (d) payment of remuneration to the investigator.

(8) A person who fails to provide all assistance reasonably required by an investigator appointed under this section commits an offence

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(a) the licence of the licensee has been revoked under this Act;

(b) in the opinion of the Authority—

(i) in the case of an insurer, it has breached or is likely to breach a solvency control level specified in regulations made under section 48(3);

(ii) the licensee is conducting its business in a manner contrary to this Act;

(iii) the continuation by the licensee of its activities is detrimental to the interests of its customers;

(iv) the licensee is engaged in or is knowingly facilitating criminal activities."

(3) The statutory manager of a licensee shall have the power to-

(a) continue or discontinue any of its operations as a licensee notwithstanding the revocation of its licence;

(b) employ necessary staff;

(c) execute any instrument in the name of the licensee;

(d) initiate, defend and conduct in its name any action or proceeding to which the licensee may be a party;

(e) appoint an advisory board

(f) close the licensee;

(g) sell or otherwise dispose of any of the property of the insurer and any subsidiaries and holding companies; or

(h) do any other act which is necessary to enable the statutory manager to execute his or her obligations under this section or section 124.

(4) The statutory manager may, after his or her appointment, appoint an auditor to perform such functions as the statutory

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manager may consider appropriate.

(5) The Authority shall upon appointing a statutory manager of a licensee, immediately inform the public.

(6) Upon appointment of a statutory manager, the board of directors of the licensee shall stand suspended.

(7) A statutory manager shall have the functions of the board of directors of the licensee, including the board's powers of delegation and use of the seal.

(8) A statutory manager shall, upon assuming the management, control and conduct of the affairs and business of a licensee, discharge his or her duties with diligence with due regard to the interests of the licensee, its policy holders and other creditors.

(9) A statutory manager shall hold office on such terms and conditions as may be prescribed in the instrument of appointment, and in any case, at the cost of the licensee.

(10) The Authority shall oversee and give general direction to the statutory manager in the performance of his or her duties under this Part.

### Justification

To provide for the circumstances under which a statutory manager may take over and their powers.

89. Clause 124 is amended-

(a) by deleting sub clauses (1) and (2) and substituting the following-

"(1) The statutory manager shall undertake his or her functions with the objective of protecting the interests of the policyholders of an insurer or the customers of an insurance intermediary."

(b) in sub clause (3), by deleting the word "six" and substituting the word "twelve"

(c) by deleting sub clause (4)(f) and substituting the following-

"(f) issuing a new statement of financial position and

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statement of comprehensive income;"

(d) by deleting the word "depositors" in the third line and substituting the word "policyholders"

(e) by deleting sub clause (6)(a) and substituting the following-

"(6) The declaration of a moratorium shall be applied giving first priority to insurance policy holders and beneficiaries, and then equally to all other classes of creditors."

(f) by deleting sub clause (6)(b), (c) and (d) and substituting the following-

"(7) During the period in which a moratorium is in force in respect of a licensee—

(a) no steps may be taken to enforce any security over the insurer's assets;

(b) no steps may be taken to repossess assets that are being used or occupied by or are in the possession of the insurer;

(c) no proceedings, execution or other legal process may be commenced or continued or distress levied against the insurer or its assets;

(d) no share may be transferred and no alteration may be made in the status of the members of the insurer, whether by an amendment of the regulations or in any shareholders' or member agreement or otherwise; and

(e) no resolution of the members of the insurer may be passed, except with the leave of Court or with the consent of the statutory manager.

(f) by deleting the words "financial institution" in the last line and substituting the words "licensee"

(g) by deleting sub clause (8) and substituting the following-

"(8) A person who willfully fails, refuses or neglects to provide any information requested under subsection (4)

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of this section is liable to a fine not exceeding five hundred currency points."

**Justification**

1. Need to emphasize policyholder's protection during statutory management.
2. Depositors apply to Banks not insurance.
3. Provide for the penalty or sanction as a civil default fine not as an offence to enable quick administrative action,

90. Clause 125 is amended-

(a) in the headnote, by inserting the words "and termination" immediately after the word "removal";

(b) by renumbering the clause and inserting new sub clauses (2) and (3) to read as follows-

(2) The Authority may, by written notice, terminate the appointment of the statutory manager and the statutory management process if it is of the opinion that—

(a) the purpose of the statutory management has been achieved or cannot be achieved; or

(b) the licensee should be wound up under Part XIV.

(3) On the termination of the statutory management, unless proceedings for the winding up of the licensee under Part XIV are commenced, the management of the insurer reverts in the board of directors."

**Justification**

To comply with ICP 10

91. Clause 127 is amended by inserting the words "without the prior written approval of the Authority" immediately after the words "up voluntarily" in the third line of the clause.

**Justification**

The prior written approval of the Authority should always be required for the voluntary winding up of an insurer in order to comply with ICP 12.

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92. Clause 129 is amended by inserting a new sub clause (2) to read as follows and the clause be renumbered-

"(2) Notwithstanding the provisions of the Companies Act 2012 and the Insolvency Act 2011, in the winding up of an insurer or HMO, insurance claims shall have priority and the assets of the company, shall first be applied in satisfying the company's liabilities under insurance contracts after payment of the properly incurred costs and expenses of the winding up."

### Justification

It is a requirement under ICP 12.1 that the policyholders be given priority when winding up proceedings are being conducted.

93. Insert a new clause immediately before clause 130 to read as follows-

#### "Requirement to consult.

(1) Before making, amending or replacing any regulation or issuing any guidance, the Authority shall—

(a) provide persons that the Authority considers will be substantially affected with a copy of the proposed—

(i) regulations or guidance;

(ii) amendments to the regulations or guidance; or

(iii) replacement regulations or guidance;

(b) give those persons a reasonable opportunity to make written representations to the Authority; and

(c) consider any written representations that it receives.

(2) The Authority may comply with its obligations under—

(a) sub section (1)(a), by publishing the relevant documents on its internet site; and

(b) sub section (1), in respect of a person by consulting with any professional or trade association of which the person is a member and considering representations by that association.



(3) The Authority may provide a response to any written representations that it receives.

(4) The failure of the Authority to comply with subsection (1) does not affect the validity of any Regulations made or Guidance issued.

### Justification

To comply with ICP 2.6 that provides for the requirement to consult

94. Clause 132 is amended-

(a) by inserting the words "arbitrate or arbitration" wherever the words "mediate" or "mediation" appear;

(b) by deleting sub clause (2) and substituting the following-

"(2) Regulations shall prescribe for-"

### Justification

The ICPs require the supervisor to be independent. Constant referral to minister does not depict that.

95. Clause 133 is amended-

(a) by deleting the word "lawyer" in sub clause (2) appearing in the last line of the clause and substituting the word "advocate";

(b) by adding a new sub clause (6) immediately after sub clause (5) to read as follows-

"(6) Expenses of the administration of the Tribunal shall be borne by the Authority or as shall be determined in the Regulations."

### Justification

An advocate is qualified to practice law in Uganda as opposed to a lawyer

96. Clause 135 is amended-

(a) by deleting the words "the Minister by" in sub clause (4) appearing in the third line of the clause;

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(c).....

(d)....."

**Justification**

To provide for compulsory membership to the college by the insurers and HMOs.

99. Clause 138 is amended-

(a) by deleting sub clause (3) and substituting the following-

"(3) The levy shall be at a rate prescribed by the Authority, by Regulations."

(b) by adding a new sub clause (4) immediately after sub clause (3) to read as follows-

"(3) The insurance training levy shall be applied by the College to fund insurance training, examination, certification and registration of licensees."

**Justification**

To provide for the circumstances in which the levy may be used.

100. Clause 139 is amended by deleting the words "one hundred currency points" appearing in the last line of the clause and substituting the words "five hundred currency points"

**Justification**

To provide for a stringent penalty for contravention of the clause

101. Clause 142 is amended by adding the following new sub clauses immediately after sub clause (2) to read as follows-

"(3) The Authority shall incur all the costs and expenses involved in prosecuting or defending legal proceedings brought against a member of the Board, staff of the Authority or any other person engaged by the Authority to perform any duties under the Act, provided the legal proceedings arise from an omission or act done in good faith."

"(4) The Authority shall not be liable to any person in respect of anything done or omitted to be done in the performance, discharge or exercise in good faith of any function, duty, responsibility or power under this Act or

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any regulations.”

**Justification**

To provide for the costs and expenses involved in prosecuting or defending actions involving the authority to be borne by the Authority and to provide for immunity to the Authority where the actions are not done in good faith and outside the mandate of the Authority

102. Clause 143 is amended by deleting the words “commits an offence and” and “on conviction” wherever they appear in the clause.

**Justification**

To provide for payment of money as the default fine

103. Clause 144 is amended by deleting sub clause (2) and substituting the following-

“(2) A person who contravenes this section is liable to a fine not exceeding fifty currency points.”

**Justification**

The penalty/sanction should be a default fine and not an offence to enable quick administrative action.

104. Clause 147 should be deleted and substituted with the following-

**“Compliance with anti money laundering and combating of terrorism financing.**

(1) Every licensee shall comply with the provisions of the Anti-Money Laundering Act, 2013 and the laws relating to combating financing of terrorism.

(2) The Authority shall, in consultation with the Financial Intelligence Authority, issue directives requiring all licensees to comply with anti money laundering and combating financing of terrorism.

(3) The Authority shall by regulations provide for the mode and requirements for anti money laundering and combating financing of terrorism”

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## Justification

To better draft the clause.

105. Clause 148 is amended-

(a) in sub clause (1), by deleting the word "Board" in the first line and substituting the word "Authority"

(b) in sub clause (2)(d) by deleting the word "and" and adding the words "and intermediaries" immediately after the word "HMOs"

(c) in sub clause (2)(i) by inserting the words "and combating financing" immediately after the words "money laundering" on the third line of the clause.

(d) in sub clause (2)(q) by deleting the word "valuation" and substituting the word "evaluation"

(e) in sub clause (2)(t) by deleting the word "reserves" and substituting the words "technical provisions"

(f) in sub clause (2)(v) by inserting the words "senior managers" immediately after the words "responsibilities of"

(g) in sub clause (2)(f) by inserting the words "and cross boarder" immediately after the words "to group"

## Justification

To provide for some of the details that had been left out at initial drafting

106. In clauses 152-155 the words "Insurance Regulatory Authority" should be deleted and substituted with the word "Authority" wherever they appear.

## Justification

In the interpretation clause, Authority has been defined to mean the Insurance Regulatory Authority. It is therefore not necessary to provide for it in full under this clause.

107. Insert a new clause immediately after clause 155 to read as follows-

### **"Risk management compliance.**

All insurers and HMOs shall be given a grace period of five years from the time of commencement of this Act within which they shall

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ensure that they are compliant with the risk management provisions under this Act."

### Justification

To give the insurers and HMOs time within which they can become compliant with the risk based management provisions.

108. Schedule 2 is amended in the heading by deleting the words "in a licensee" and substituting the word "or"

109. Schedule 3 is amended-

(a) in paragraph 9 by inserting the words "of the Authority" immediately after the word "seal"

(b) in paragraph 10 by deleting the word "Board" in the second line and substituting the word "Authority"

(c) in paragraph 11 by deleting the word "Board" appearing in the second line and substituting the word "Authority"

### Justification

To make the provision more clearer because the seal being referred to is the seal of the Authority and the Secretary being referred to is the secretary to the Authority and not the board.

110. The following Acts should be added to the cross reference

"Anti money laundering Act, 2013

Companies Act, 2012

Cooperatives Societies Act, Cap.112

Financial Institutions Act, 2004

Insolvency Act, 2011

Public Finance Management Act, 2015"



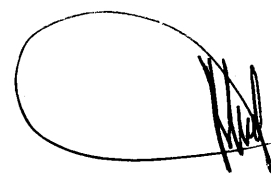


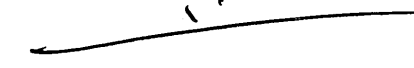


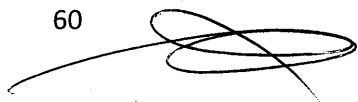




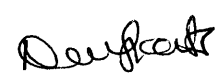




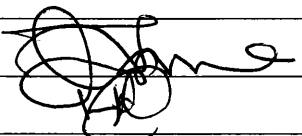
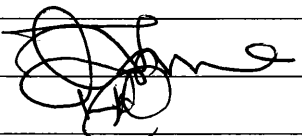

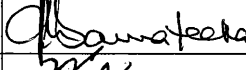

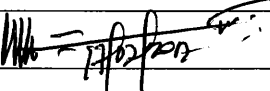

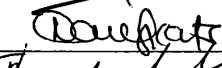
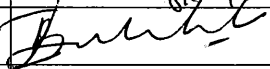
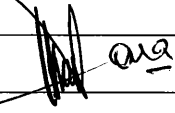
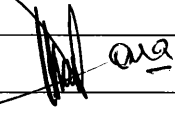
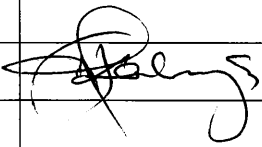
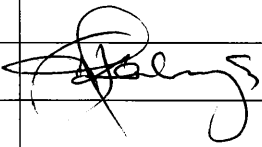


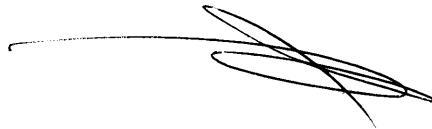






**REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC  
DEVELOPMENT ON THE INSURANCE BILL, 2016**

<b>No</b>	<b>NAME</b>	<b>CONSTITUENCY</b>	<b>SIGNATURE</b>
1	Hon. Musasizi Henry, CP	Rubanda East	
2	Hon. Katali Loy, V/CP	DWR Jinja	
3	Hon. Acidri James	Maracha East	
4	Hon. Lugolobi Amos	Ntenjeru North	
5	Hon. Asiku Elly Elias	Koboko North	
6	Hon. Bategeka Lawrence N	Hoima Municipality	
7	Hon. Kalule Sengo Emmanuel	Gomba East	
8	Hon. Kamateeka Jovah	DWR Mitooma	
9	Hon. Katoto Hatwib	Katerera County	
10	Hon. Lokii John Baptist	Matheniko County	
11	Hon. Nagwomu Moses Musamba	Bunyole East	
12	Hon. Niringiyimana James .K.	Kinkizi West	
13	Hon. Opolot Isiagi Patrick	Kachumbala County	
14	Hon. Tumuramyie Genensio	Kashongi County	
15	Hon. Naigaga Mariam	DWR Namutumba	
16	Hon. Ilukor Charles	Kumi county	
17	Hon. Okello Anthony	Kioga County	
18	Hon. Ayepa Michael	Labwor County	
19	Hon. Walyomu Muwanika Moses	Kagoma County	
20	Hon. Mulindwa Isaac Ssozi	Lugazi Municipality	
21	Hon. Kutesa Pecos (Maj,Gen)	UPDF	
22	Hon. Adong Lilly	Nwoya District	
23	Hon. Anita Among	Bukedea District	
24	Hon. Mukula Francis	Agule Pallisa	
25	Hon. Kakooza James	Kabula County	
26	Hon. Bagoole John Ngobi	Luuka County	







27	Hon. Nathan Nandala-Mafabi	Budadiri West	<del>Handwritten signature</del>
28	Hon. Akol Anthony	Kilak North	<del>Handwritten signature</del>
39	Hon. Odonga Otto	Aruu County	<del>Handwritten signature</del>
30	Hon. Luttamaguzi Semakula	Nakaseke South	<del>Handwritten signature</del>
31	Hon. Akello Judith Franca	Agago District	

