GOVERNMENT NOTICE NO. 26

FINANCIAL SERVICES ACT, 2010

(NO. 26 of 2010)

FINANCIAL SERVICES (EXTERNAL AUDIT AND RELATED MATTERS FOR INSURANCE BUSINESS) DIRECTIVE, 2014

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

PART I—PRELIMINARY

1. Citation
2. Interpretation
3. Application

PART II—OBJECTIVES

4. Objectives

PART III—SPECIFIC REQUIREMENTS

5. Responsibility of the Board of Directors
6. Terms of engagement
7. Approval process
8. Registration as an approved external auditor
9. Evaluation process
10. Obligations of an external auditor
11. Relationship with the Registrar
12. Submission of audit report and management letter
13. Meetings with the Registrar
14. Resignation of an external auditor

PART IV—ENFORCEMENT

15. Remedial measures and administrative penalties
16. Revocation of appointment
17. Registrar to report non-compliance to professional bodies

IN EXERCISE of the powers conferred by sections 34 and 36 of the Financial Services Act 2010, I, CHARLES. S. R. CHUKA, Registrar of Financial Institutions, issue the following Directive—

PART I—PRELIMINARY

Citation

1. This Directive may be cited as the Financial Services (External Audit and Related Matters For Insurance Business) Directive, 2014.

Interpretation

2. In this Directive unless the context otherwise requires.

"Act" means the Financial Services Act, 2010;

"External Auditor" means a registered audit firm whose partners are registered by the Malawi Accountants Board;

"Insurance Company" means a general insurance company, a life insurance company and a reinsurance company; and

"IFRS" means International Financial Reporting Standards.

Application

3. This Directive applies to insurance companies licensed under the Act.

PART II—OBJECTIVES

Objectives

4. The objectives of this Directive are to:

(*a*) promote the accuracy and reliability of financial statements issued by insurers for supervisory purposes;

(*b*) enhance credibility of information submitted to the Registrar and ensure an independent review and opinion of the insurer's compliance with prevailing International Financial Reporting Standards (IFRS); and

(*c*) ensure that persons appointed as external auditors are fit and proper to carry out their duties.

PART III—SPECIFIC REQUIREMENTS

Responsibility of the Board of Directors

5. The board of directors of an insurance company shall ensure that an external auditor—

(*a*) is appointed in accordance with the requirements of the Act and this Directive;

(*b*) has access to all data, information, reports and staff that the external auditor believes is necessary to fulfil its roles and responsibilities under the Act and this Directive, including access to the Board members and the internal auditors of the insurance company;

(*c*) is fully informed of all applicable prudential requirements imposed under the Act, relevant financial services laws, IFRS and applicable audit standards;

(*d*) is provided with any other information, including examination reports, that may assist the external auditor to fulfil its roles and responsibilities; and

(*e*) rotates its partner-in-charge at least every five (5) years.

Terms of engagement

6. The Board shall ensure that the terms of engagement of the external auditor are set out in a legally binding document that requires the external auditor to:

(*a*) fulfill its roles and responsibilities as specified in the Act and this Directive;

(*b*) subject to the Act and this Directive, comply with the Auditing Standards and Guidance issued from time to time by the International Auditing and Assurance Standards Board (IAASB); and

(*c*) co-operate with and give information to the Registrar on request.

Approval process

7.—(1) In accordance with section 56 of the Act, the annual appointment of an external auditor by shareholders of an insurance company shall be subject to the prior written approval of the Registrar.

(2) To facilitate the approval process, the Registrar shall pre-approve all qualified audit firms and individual auditors before their appointment as external auditors.

(3) Where the proposed audit firm has not been pre-approved as an external auditor under this paragraph, the insurance company shall submit completed applications to the Registrar before end June of each year.

Registration as an approved external auditor

8.—(1) Audit firms or individuals seeking appointment as an approved external auditor of an insurance company shall seek pre-approval from the Registrar.

(2) The audit firm shall complete the Application Form EA1 set out in the Schedule hereto and submit all supporting proof and documentation to the Registrar.

(3) The Registrar may provide a written notice of pre-approval for up to three years and may impose such conditions as he deems fit.

(4) For the avoidance of doubt, the pre-approval process provided for in this Directive shall be for the purposes of expediting the approval process under the Act and shall not be construed as a licence, franchise or endorsement of the standing or performance of the audit firm.

(5) The Registrar may cancel the pre-approval at any time for any reason.

Evaluation process

9. In assessing the application for approval of an external auditor, the Registrar shall amongst other things be satisfied that—

(*a*) the external auditor is licensed by the Malawi Accountants Board;

(*b*) the partners and lead audit manager are fit and proper;

(*c*) the external auditor is independent of the insurance company, its shareholders and directors;

(*d*) the external auditor has the experience and expertise to conduct specialist and technical evaluations of the insurance company including reinsurance, technical reserving, liability valuations, IT systems audits and Anti-Money Laundering and Counter-Terrorism Financing reviews;

(*e*) commercial assignments performed by the external auditor in addition to the external audit appointment, do not create conflicts of interest that would compromise the independence of the external audit work; and

(*f*) the audit firm or individual seeking approval for appointment has and maintains a rating of 'Satisfactory' under the Institute of Chartered Accountants in Malawi's Practice Review Program.

Obligations of an external auditor

10. It shall be the responsibility of the external auditor to—

(*a*) conduct audits and incidental activities subject to professional standards issued by the International Auditing and Assurance Standards Board (IAASB), the Act, relevant financial services laws and any other guidelines or directions issued by the Registrar from time to time;

(*b*) submit directly to the Registrar, all reports required to be produced in terms of this Directive and submit all assessments and other materials connected with the production of such reports, upon request by the Registrar;

(*c*) warn the Board and notify the Registrar of any material breaches to financial services laws and prudential requirements specifically those on capital and solvency;

(*d*) inform the Board and notify the Registrar of any matter that is detrimental to the current and future financial interests of policy holders and beneficiaries or may prejudice the ability of the insurance company to continue to conduct business as a going concern;

(*e*) inform the Board and notify the Registrar of any concerns with respect to sound financial management or the maintenance of adequate internal controls and systems; and

(*f*) ascertain and evaluate the adequacy of asset and liability valuations, reserving methods and process of technical liabilities; and test internal controls before placing audit reliance on them.

Relationship with the Registrar

11. With respect to the relationship with the Registrar, the external auditor shall—

(*a*) provide reasonable assurance that the insurance company has provided reliable data in the reporting forms submitted to the Registrar on an annual basis or on such frequency as may be required by the Registrar;

(*b*) provide reasonable assurance to the Registrar as to the adequacy of internal controls and risk management systems of the insurance company and that they are operating effectively;

(*c*) supply all information and documents requested by the Registrar relevant to the insurance company;

(*d*) undertake a special purpose engagement on prudential or operational matters, risk management systems or financial position as may be requested by the Registrar. The Registrar may consult first with the insurance company prior to the special purpose engagement. Findings and reports of such special purpose engagement shall be made directly to the Registrar and the costs thereof shall be borne by the insurance company;

(*e*) prepare all audit reports, assessments and other materials on a basis that the Registrar may rely upon them in the performance of his functions under the Act and other relevant financial services laws;

(*f*) when preparing reports, whether as part of routine or special purpose engagements, not place sole reliance on the work performed by the Registrar in the Registrar's supervisory work; and

(*g*) not be relieved of responsibility for material errors and gross misrepresentation in statements or reports by virtue of disclaimer clauses or other caveats.

Submission of audit report and management letter

12. An insurance company shall—

(*a*) within three months of the close of its financial year, submit to the Registrar, a copy of its audited financial statements and management letters;

(*b*) within four months of the close of its financial year, publish its short form audited annual accounts in at least two newspapers of wide circulation; and

(*c*) submit a copy of its audited annual report to all shareholders annually.

Meetings with the Registrar

13.—(1) The Registrar may have tripartite meetings annually with the external auditor and management of the insurance company.

(2) The Registrar and external auditor may also have bilateral meetings with the external auditor at the request of either party.

(3) The costs associated with attending such meetings shall be borne by the insurance company.

Resignation of an external auditor

14. An external auditor shall notify the Registrar in writing of its intention to resign from the appointment, including the reasons for resignation, at least thirty (30) days prior to the resignation taking effect.

PART V—ENFORCEMENT

Remedial measures and administrative penalties

15.—(1) The Registrar may impose the following monetary penalties for violations of this Directive:

(*a*) fine of 100 percent of the audit fees payable to the appointed external auditor where an insurance company engages an external auditor without the written approval of the Registrar;

(*b*) a fine of 100 percent of the audit fees payable to the external auditor to be appointed where an insurance company fails to submit applications for approval of external auditors to the Registrar by 30th June of each year;

(*c*) a fine of five hundred thousand Kwacha (K500,000), where an insurance company submits false or incorrect information in applying for appointment of an external auditor;

(*d*) a fine of five hundred thousand Kwacha (K500,000) where an insurance company fails to rotate the audit partner-in-charge after expiry of five (5) years;

(*e*) a fine of five hundred thousand Kwacha (K500,000) where an insurance company fails to submit a copy of its audited financial statements and management letters within three months after the close of its financial year; and one hundred thousand Kwacha (K100,000) for each additional month the audited financial statements remain outstanding; and

(*f*) a fine of five hundred thousand Kwacha (K500,000) where the external auditor so appointed by an insurance company fails to comply with the provision of this Directive and sections 57 to 59 of the Financial Services Act in carrying out his work.

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

(3) In addition to the monetary penalties imposed under paragraph 15(1), the Registrar may impose directions, administrative penalties and enforcement actions as provided for under the Act.

Revocation of appointment

16.—(1) The Registrar shall revoke the approval of appointment of the external auditor where—

(*a*) in the opinion of the Registrar, the external auditor has failed to perform adequately and competently the duties and obligations of an appointed external auditor as required under the Act, this Directive or any written law;

(*b*) the Registrar's approval of the external auditor was obtained through false, incorrect or misleading information;

(*c*) in case of a firm or partnership of auditors, key personnel material to the original approval have left the firm or partnership;

(*d*) the external auditor fails to maintain a 'Satisfactory' rating under the Institute of Chartered Accountants in Malawi's Practice Review; or

(*e*) in the opinion of the Registrar, the external auditor is not able to deploy an appropriately qualified team to conduct the audit.

(2) Prior to the revocation, the Registrar shall give the concerned external auditor an opportunity to make representations on the matter.

Registrar to report non-compliance to professional bodies

17. Where, in the opinion of the Registrar, the revocation under paragraph 16 is a result of the failure of the external auditor to apply appropriate professional diligence or failure to comply with requirements of the Act, this Directive or other financial services laws, the Registrar shall report the auditor to the relevant professional body for appropriate disciplinary action.

SCHEDULE (para. 8 (2))

FORM EA 1

APPLICATION FOR PRE-APPROVAL OF AN AUDIT FIRM OR INDIVIDUAL AS AN EXTERNAL AUDITOR OF A REGULATED FINANCIAL INSTITUTION

If there is insufficient space in any section of the Form, you may photocopy the relevant page(s) and submit as part of this submission.

Application details

Who should Reserve Bank of Malawi contact if there is a query about this form?

Firm/Organisation: .....

Contact name and position: .....

Telephone number: .....

Postal address: .....

Email address: .....

Company details: .....

Company name: .....

Date and Place of incorporation: .....
(*please provide copy of certificate of incorporation*)

1. Principal place of practice

Registered office address: .....

Postal address: .....

Contact telephone numbers: .....

Fax number: .....

Email address: .....

2. Other place of practice

Registered office address: .....

Postal address: .....

Contact telephone numbers: .....

Fax number: .....

Email address: .....

3. Additional other place of practice

Registered office address: .....

Postal address: .....

Contact telephone numbers: .....

Fax number: .....

Email address: .....

4. Authorized audit company director details

Please enter details of all directors and their auditor numbers

Name: .....

Date of birth: .....

Nationality: .....

Number of years with the audit firm: .....

(Include a page curriculum vitae covering qualifications and relevant audit experience of financial institutions)

4. Authorized audit company director details *(continued. . .*

Name: .....

Date of birth: .....

Nationality: .....

Number of years with the audit firm: .....

(Include a page curriculum vitae covering qualifications and relevant audit experience of financial institutions)

4. Authorized audit company director details *(continued. . . .*

Family name: .....

Given name: .....

Date of birth: .....

Country: .....

Auditor number: .....

(Include a page curriculum vitae covering qualifications and relevant audit experience of financial institutions)

4. Authorized audit company director details *(continued. . .*

Name: .....

Date of birth: .....

Nationality: .....

Number of years with the audit firm: .....

(Include a page curriculum vitae covering qualifications and relevant audit experience of financial institutions)

4. Authorized audit company director details *(continued. . . .*

Name: .....

Date of birth: .....

Nationality: .....

Number of years with the audit firm: .....

(Include a page curriculum vitae covering qualifications and relevant audit experience of financial institutions)

4. Authorized audit company director details *(continued. . . .*

Name: .....

Date of birth: .....

Nationality: .....

Number of years with the audit firm: .....

(Include a page curriculum vitae covering qualifications and relevant audit experience of financial institutions)

5. Authorized audit company details
Chief Executive Officer

Provide details identifying the Chief Executive Officer or equivalent

Name: .....

Date of birth: .....

Nationality: .....

Date of appointment: .....

6. Fit and proper person disclosure:

For each of the Chief Executive Officers, Directors and Lead Audit Managers, review Fit and Proper person requirements under Registrar's Directive on fitness and propriety. If yes to any question or any other matter that may affect fit and proper assessment, provide material and explanations in additional pages.

(*a*) Does the appointed person have appropriate formal qualifications? *Yes/No*

(*b*) Is the appointed company auditor registered under the Malawi Companies Act? .. .. *Yes/No*

(*c*) Is the appointed company auditor a member of a recognized professional body? .. .. *Yes/No*

7. Professional indemnity insurance policy details

Name of Insurer: .....

Name of placing broker: .....

Policy number: .....

Period of policy (i.e from/to): .....

Does the policy indemnify for breach of professional conduct?. . .. *Yes/No*

Is the insurance cancellable by the insurer for innocent nondisclosure or misrepresentation?. . .. . *Yes/No*

Does the policy contain only standard industry exclusions or those reasonably common for professional indemnity insurance?. . .. *Yes/No*

Does the policy provide for fraud extension cover?. . . . . *Yes/No*

Does the policy provide cover for costs and expenses, including legal costs and expenses of investigating, defending and settling claims against the insured? .. .. *Yes/No*

Does this policy have a retroactive date? .. .. *Yes/No*

If so, is the retroactive date no later than 7 years before the beginning of the period of insurance?. . .. . *Yes/No*

What best describes the coverage of this policy Individual Cover/ Group Cover

What is the maximum estimated audit engagement fee that will be charged by the company for conducting an audit? .. .. MWK.....

Limit of indemnity. . . . . MWK.....

What is the maximum amount of any excess or deductible under the policy? . . . . . MWK.....

What is the value of the company's net tangible assets at the date of the application? . . . . . MWK.....

What was the policy premium for the current period?. . . . . MWK.....

What is the jurisdiction of the policy?

8. Documents to be attached

Proof and evidence supporting the application must be included for the company and each appointed individual. The information provided is to assist the Registrar in approving the Audit Firm. The Registrar may conduct police and other relevant checks in Malawi and elsewhere in the approval process.

For each person identified in this application, the following information must be submitted:

- Certified copy of photo identification (passport size)
- Certified copy of practicing certificate
- One page Curriculum Vitae describing qualifications and experience
- Copy of the most recent Institute of Chartered Accountants in Malawi (ICAM) Practice Review
- Signed declaration and consent form

9. Declarations and consents

Declaration

I declare that, to the best of my knowledge, information and belief, the information contained in and attached to this Reserve Bank of Malawi Application Approval Form is true and correct.

Consent:

The applicant consents to:

(*a*) the disclosure of information contained in and attached to this Reserve Bank of Malawi Application Approval Form to the police, relevant professional and industry bodies, other government departments or agencies, or any other person named in this Form and to other institutions and agencies in other jurisdictions where the applicant may have worked or resided; and

(*b*) the disclosure of any relevant information by any of the bodies or persons referred to in paragraph (*a*) to Reserve Bank of Malawi, for the purpose of assisting verification that the information contained in and attached to this Form is true and correct.

Warning

It is an offence under the *Financial Services Act 2010* to provide false or misleading information to the Registrar. False or misleading information in an application (including a material omission) may also be grounds for cancellation or suspension of previous Registrar's approval as an audit firm and disqualification from future approvals on fitness and propriety grounds.

5. Authorized audit company details
Chief Executive Officer

Provide details identifying the Chief Executive Officer or equivalent

Name: .....

Date of birth: .....

Nationality: .....

Date of appointment: .....

---

6. Fit and proper person disclosure:

For each of the Chief Executive Officers, Directors and Lead Audit Managers, review Fit and Proper person requirements under Registrar's Directive on fitness and propriety. If yes to any question or any other matter that may affect fit and proper assessment, provide material and explanations in additional pages.

(*a*) Does the appointed person have appropriate formal qualifications? *Yes/No*

(*b*) Is the appointed company auditor registered under the Malawi Companies Act? . . . . . *Yes/No*

(*c*) Is the appointed company auditor a member of a recognized professional body? . . . . . *Yes/No*

---

7. Professional indemnity insurance policy details

Name of Insurer: .....

Name of placing broker: .....

Policy number: .....

Period of policy (i.e from/to): .....

Does the policy indemnify for breach of professional conduct?. . . . *Yes/No*

Is the insurance cancellable by the insurer for innocent nondisclosure or misrepresentation?. . . . . *Yes/No*

Does the policy contain only standard industry exclusions or those reasonably common for professional indemnity insurance?. . . . *Yes/No*

Does the policy provide for fraud extension cover?. . . . . *Yes/No*

Does the policy provide cover for costs and expenses, including legal costs and expenses of investigating, defending and settling claims against the insured? . . . . . *Yes/No*

Does this policy have a retroactive date? . . . . . *Yes/No*

If so, is the retroactive date no later than 7 years before the beginning of the period of insurance?. . . . . *Yes/No*

What best describes the coverage of this policy Individual Cover/ Group Cover

What is the maximum estimated audit engagement fee that will be charged by the company for conducting an audit? . . . . MWK.....

Limit of indemnity. . . . . MWK.....

What is the maximum amount of any excess or deductible under the policy? . . . . . MWK.....

What is the value of the company's net tangible assets at the date of the application? . . . . . MWK.....

What was the policy premium for the current period?. . . . . MWK.....

What is the jurisdiction of the policy?

8. Documents to be attached

Proof and evidence supporting the application must be included for the company and each appointed individual. The information provided is to assist the Registrar in approving the Audit Firm. The Registrar may conduct police and other relevant checks in Malawi and elsewhere in the approval process.

For each person identified in this application, the following information must be submitted:

- Certified copy of photo identification (passport size)
- Certified copy of practicing certificate
- One page Curriculum Vitae describing qualifications and experience
- Copy of the most recent Institute of Chartered Accountants in Malawi (ICAM) Practice Review
- Signed declaration and consent form

9. Declarations and consents

Declaration

I declare that, to the best of my knowledge, information and belief, the information contained in and attached to this Reserve Bank of Malawi Application Approval Form is true and correct.

Consent:

The applicant consents to:

(*a*) the disclosure of information contained in and attached to this Reserve Bank of Malawi Application Approval Form to the police, relevant professional and industry bodies, other government departments or agencies, or any other person named in this Form and to other institutions and agencies in other jurisdictions where the applicant may have worked or resided; and

(*b*) the disclosure of any relevant information by any of the bodies or persons referred to in paragraph (*a*) to Reserve Bank of Malawi, for the purpose of assisting verification that the information contained in and attached to this Form is true and correct.

Warning

It is an offence under the *Financial Services Act 2010* to provide false or misleading information to the Registrar. False or misleading information in an application (including a material omission) may also be grounds for cancellation or suspension of previous Registrar's approval as an audit firm and disqualification from future approvals on fitness and propriety grounds.

Name: .....

Position: .....

Signature: .....

Date signed: .....

Submission of Application:.
Send completed and signed forms to:
Registrar of Financial Institutions
Reserve Bank of Malawi
P O Box 30063
Capital City
Lilongwe 3
MALAWI

For more information, contact:

The Director
Pension and Insurance Supervision
Reserve Bank of Malawi
P O Box 565
Blantyre
MALAWI
E-mail: pisu@rbm.mw

Made this 7th day of July, 2014.

C. S. R. CHUKA
Registrar of Financial Institutions

(FILE NO. EAD/FSDU/10/01