The Malawi Gazette Supplement, dated 1st September, 2017, containing Regulations, Rules, etc. (No. 20A)

GOVERNMENT NOTICE NO. 45

FINANCIAL SERVICES ACT

(CAP. 44:05)

FINANCIAL SERVICES (INSURANCE SUPERVISORY LEVY) REGULATIONS, 2017

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IN EXERCISE of the powers conferred by Section 13 of the Financial Services Act, I, GOODALL EDWARD GONDWE, Minister of Finance, Economic Planning and Development, make the following Regulations—

PART I—PRELIMINARY

Short title

1. These Regulations may be cited as the Financial Services (Insurance Supervisory Levy) Regulations, 2017.

Application

2. These Regulations shall apply to all insurers, reinsurers and insurance brokers licensed to conduct insurance, reinsurance and insurance broking business in Malawi.

Interpretation

3. In these Regulations, unless the context otherwise requires—

"insurer" has the meaning ascribed to that term in the Insurance Act; Cap. 47:01

"insurance broker" has the meaning ascribed to that term in the Insurance Act; Cap. 47:01

"Registrar" means the Registrar of Financial Institutions appointed under section 8 of the Financial Services Act; and Cap. 44:05

"reinsurer" has the meaning ascribed to that term in the Insurance Act. Cap. 47:01

PART II—OBJECTIVES

Objectives

4. The objectives of these Regulations are to—

(*a*) provide for the imposition and collection of supervisory levies from every insurer, reinsurer and insurance broker in order to cover the cost of supervising insurers, reinsurers and insurance brokers by the Registrar;

(*b*) prescribe the different bases of calculation and different rates of supervisory levy to each insurer, reinsurer and insurance broker; and

(*c*) strengthen and enhance a sound regulatory and supervisory framework for each insurer, reinsurer and insurance broker that will promote financial sector soundness in Malawi.

PART III—ASSESSMENT AND PAYMENT OF SUPERVISORY LEVY

Payment of supervisory levy

5.—(1) An insurer, reinsurer or insurance broker shall pay an annual supervisory levy to the Registrar in the manner prescribed in Regulation 6.

(2) The supervisory levy shall be payable to the Registrar within four months after the close of the insurer, reinsurer or the insurance broker's financial year.

(3) An insurer, reinsurer or insurance broker shall pay the supervisory levy to the Registrar through a bank certified cheque or an electronic funds transfer in favour of the Reserve Bank of Malawi.

(4) Where the Registrar notifies an insurer, reinsurer or insurance broker, that payment of a supervisory levy is due, the payment shall be made within ten (10) working days from the date of notification.

Methodology for assessing supervisory levy

6.—(1) The methodology for assessing the supervisory levy shall be as follows—

(*a*) an insurer conducting general insurance business shall pay a minimum supervisory levy of two million five hundred thousand Kwacha (K2, 500, 000) or an amount equivalent of one percent (1%) of its audited annual profit for the preceding year, whichever is greater, provided that the amount shall not exceed eight million Kwacha (K8, 000, 000);

(*b*) an insurer conducting life insurance business shall pay a minimum supervisory levy of two million five hundred thousand Kwacha (K2, 500, 000) or an amount equivalent of one percent (1%) of its audited annual profit for the preceding year, whichever is greater, provided that the amount shall not exceed ten million Kwacha (K10, 000, 000);

(*c*) a reinsurer shall pay a minimum supervisory levy of three million Kwacha (K3,000,000) or an amount equivalent of one percent (1%) of its audited annual profit for the preceding year, whichever is greater, provided that the amount shall not exceed ten million Kwacha (K10,000, 000); and

(*d*) an insurance broker shall pay a minimum supervisory levy of five hundred thousand Kwacha (K500,000) or an amount equivalent of one percent (1%) of its audited annual profit for the year, whichever is greater, provided that the amount shall not exceed two million and five hundred thousand Kwacha (K2,500,000).

(2) An insurer, reinsurer or insurance broker shall be exempted from payment of a supervisory levy until after a period of twenty four (24) months from commencing its operations.

(3) The waiver in Sub Regulation 2 shall not apply to new entities arising from mergers, acquisitions, amalgamations, conversions or similar fundamental corporate transactions.

PART III—ENFORCEMENT

Penalty for non-compliance

7. The Registrar shall impose—

(*a*) a penalty interest, for each day of default, at the ruling bank rate on an insurer, reinsurer or insurance broker which fails to pay the supervisory levy within four months after the close of the insurer or the insurance broker's financial year as stipulated under regulation 5; and

(*b*) a fine of ten percent (10%) of the assessed supervisory levy where a misrepresentation or other noncompliance by an insurer, reinsurer or insurance broker leads to under collection of a supervisory levy.

Administrative penalty
Cap. 44:05
Cap. 47:01

8. In addition to the penalties prescribed in regulation 7, the Registrar may impose directions, administrative penalties and other enforcement actions as provided for in the Financial Services Act and the Insurance Act on an insurer, reinsurer or insurance broker which does not meet the requirements of these regulations.

Made this 15th day of August, 2017

GOODALL E. GONDWE
Minister of Finance, Economic Planning and Development

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