



C I M A

INTER-AFRICAN CONFERENCE ON INSURANCE MARKETS

COUNCIL OF MINISTERS

REGULATION N 002 /CIMA/PCMA/PCE/2015 AMENDING AND COMPLETING THE PROVISIONS OF THE CODE OF INSURANCE WITH REGARD TO LICENCE AND SUPERVISION CONDITIONS OF REINSURANCE AND REINSURANCE COMPANIES

THE COUNCIL OF MINISTERS

In view of the Treaty establishing an integrated Body in the Insurance industry in the African countries in particular in its articles 6, 39, 40, 41 and 42;

In view of the final communication of the Council of Ministers of 09 April 2015;

In view of the Experts Committee meeting report of the Inter-African Conference on Insurance Markets (CIMA) from 31 March to 07 April 2015;

Upon advice of the Experts Committee,

DECIDES:

Article 1: The Code of Insurance is amended and completed with the following provisions

BOOK III

THE COMPANIES

TITLE I

GENERAL PROVISIONS AND SUPERVISION

SINGLE CHAPTER

Section I-General provisions

Article 300

Supervision purpose and scope

The agreement performs in the interest of the insured, underwriters and beneficiaries of insurance and capitalisation contracts.

The companies subject to this supervision are:

- 1) companies binding commitments for which performance is based on human lifetime or relying on savings in view of capitalisation and binding, in return for direct or indirect once-off payments or instalments, specific commitments
- 2) insurance companies of all types including companies conducting assistance activities and others not referred to in 1)



BOOK VIII
REINSURANCE
TITLE I
REINSURANCE COMPANIES
CHAPTER I
GENERAL PROVISIONS
Article 800: Definition

For the purpose of this book,

- a) "Reinsurance" means practice where a body accepts ceded insurance risks either by an insurance company or by another reinsurance company.
- b) "Reinsurance Company" means a company, other than an insurance company, operating in reinsurance.
- c) "Branch" means an entity that does not benefit from a legal personality, but has certain degree of autonomy in terms of management and leadership with respect to the reinsurance company it belongs to.
- d) "Competent authorities" means authorities empowered, under a law or regulation, to supervise reinsurance companies;
- e) "Underwriting, representative or liaison office" means any insurance company representative underwriting or facilitating the underwriting of risks on its behalf
- f) "Captive reinsurance company" means a reinsurance company owned by a financial company other than an insurance or reinsurance company or group of insurance or reinsurance companies, aiming at providing reinsurance products that exclusively cover the risks of the company or companies it belongs to or of one or more companies of the group it is part of.

By extension, captive also refers to any reinsurance company belonging to a group or to a network of insurance companies and only reassuring the group subsidiaries or its network members.

Article 801
Supervision-Principle and scope

The entities subject to supervision are reinsurance companies having registered offices in the territory of a CIMA Member State, reinsurance branches, underwriting, representative or liaison offices operating in the territory of a CIMA Member State.

The terms and conditions for the supervision implementation on multilateral or pan-African reinsurance companies of which one or more Member States is part are set out in a further text.

Article 802
Form of the reinsurance company

Except for mutual reinsurance companies referred to in article 330-41 of the Code of Insurance and for multilateral and pan-African reinsurance companies referred to in article 803, any reinsurance company with its registered office in a State Member shall be incorporated in form of a public limited



Nevertheless, a reinsurance company may not be incorporated in form of a single-member public limited company.

Article 803
Reinsurance companies authorised to operate in
CIMA Member States

The following companies are authorised to conduct reinsurance business towards insurance companies in the CIMA Member States;

- reinsurance companies with registered office in a CIMA Member State, under the terms set out in article 804 hereunder;
- multilateral and pan-African reinsurance companies which one or more CIMA Members States is part of and rated by a recognised international agency, subject to the conditions laid down by the Regional Commission for Insurance Supervision;
- insurance or reinsurance companies with registered office in a non-CIMA State and operating from a branch, underwriting, representative or liaison office lawfully established in the territory of a Member State subject to the conditions laid down by the Regional Commission for Insurance Supervision. These entities will be able to exercise within the agreements with third countries under the articles 812 and 813 of the Code of Insurance.
- insurance and reinsurance companies subject to supervision by their home State or rated by a recognised international agency, in accordance with the conditions laid down by the Regional Commission for Insurance Supervision; These entities will be able to exercise within the agreements with third countries under the articles 812 and 813 of the Code of Insurance;
- insurance companies authorised by the Minister in charge of the Insurance sector in a Member State upon assent from the Regional Commission for Insurance Supervision within the framework of secondary operations for acceptance in reinsurance.

CHAPTER II
CONSTITUTION AND OPERATING RULES

Article 804: Licence

Reinsurance companies and branch, underwriting, representative or liaison offices of reinsurance companies for which the registered office is not in a Member State referred to in article 801 may only start their operations after having received a licence from the Regional Commission for Insurance Supervision informing the Minister in charge of Insurance in the country of the head office.

The obtained licence is valid throughout the Inter-African Conference on Insurance Markets area.

Nevertheless, a reinsurance company with registered office in a Member State may only establish a branch, underwriting, representative or liaison office in another Member State after authorisation from the Minister in charge of Insurance in such Member State.

For the granting of licence, reinsurance operations are classified as follows:

- Life reinsurance : reinsurance of risks of the same nature as those covered by the insurance companies referred to in 1) of article 300 of the Code of Insurance;



- Non-life reinsurance : reinsurance of risks of the same nature as those covered by the insurance companies referred to in 2) of article 300 of the Code of Insurance;

The licence is granted upon request of the company either for life reinsurance operations, or for non-life reinsurance operations, or for all of these operations.

Reinsurance companies may not have any purpose other than performing reinsurance business and directly related operations.

Article 805 **Criteria for granting or rejecting licence**

In order to issue the licence under article 804, the Regional Commission for Insurance Supervision ensures that the following conditions are met:

- a) the technical and financial resources relative to the intended implementation are sufficient and appropriate for the business programme of the company;
- b) the officers and directors of the company meet the requirements of good repute and have individually and collectively, the skills and experience required for their position;
- c) capital distribution and shareholding quality ensure a proper and healthy management;
- d) the company has the personnel and the technical resources required for the implementation of an appropriate information system for the business.

In addition, the Regional Commission for Insurance Supervision takes into account the general organisation of markets.

Article 806 **Licence application**

Any licence application submitted by a company belonging to a Member State shall include five (5) copies thereof. The licence application shall be sent to the Regional Commission for Insurance Supervision by the Minister in charge of Insurance in the Member State where the reinsurance company wishes to establish. It shall include:

- a) a list in accordance with the third paragraph of article 804, of the business that the reinsurance company intends to carry on;
- b) one of the two original memorandum of association of the company or an authenticated copy;
- c) the minutes of the general constitutive assembly;
- d) two copies of the statutes and a bank deposit statement;
- e) the list of directors and officers including any person requested to perform equivalent duties and specifying the surname, name, address, nationality, date and place of birth for each person;

The aforementioned persons shall provide a police clearance certificate not older than three (3) months or a similar document issued by a competent judicial or administrative authority.

In addition, foreign nationals shall comply with the legal provisions and regulations with regard to the situation and the Aliens Department.



- f) a business programme including:
- 1) a document specifying the nature of the risks that the company intends to cover,
 - 2) the guidelines that the company intends to follow in terms of retrocession
 - 3) the computerisation plan of the company, estimated installation costs for the administration services and the financial resources in order to address them
 - 4) for the first three (3) financial years:
 - a. estimated management costs excluding installation costs, in particular overhead expenses and commissions;
 - b. estimated premium, loss and benefits;
 - c. cash position forecast
 - d. balance sheets, operating account, general profit and loss account forecast,
 - 5) for the same financial years:
 - o the estimated financial resources in order to meet commitments;
 - o the estimated solvency margin the company shall have to implement the provisions of this book;
 - 6) the list of the main shareholders with the capital share owned by each;
 - 7) the name and address of the main bank where the company bank accounts are established
 - 8) supporting documentation of the proper governance and management of risks in particular the procedures manual, underwriting guide, risk management policy, governance framework;
 - 9) if requesting an extension of licence, the documents referred to in c) d) and e) of this article are not required. The company shall specify, as appropriate, any amendment occurred regarding the implementation of the provisions of f) of this article and those in article 807 of the Code of Insurance and prove it has a solvency margin of not less than the prescribed amount.
- g) the list of regular or alternate auditors with surname, name, address, nationality, place and date of birth of the natural person or the audit office representative.

These persons shall provide:

- o a police clearance certificate not older than three months or a similar document issued by a competent judicial or administration authority;
 - o a curriculum vitae;
 - o a registration certificate from the association of chartered accountants accredited with the court having jurisdiction in the State concerned or by any other authorised organisation;
 - o the name of the entities previously audited or being audited, insurance and reinsurance companies in particular, and the time spend in each organisation;
 - o the solemn undertaking from auditors that they are not directly or indirectly engaged in any incompatible activity, have no suspicious or contentious debt to the insurance company and avoid any conflict of interest.
- h) Original extract from the register of companies

Article 806-1
Original extract from the register of companies



1°) Any licence application submitted by a company registered outside CIMA territories OR wishing to establish in one of the Member States, shall be produced in duplicate and include in addition to the documents under a), d) and e) of article 806:

- a) the balance sheet, operating account and general profit and loss for each of the last three financial years; however, when the company has less than three financial years these documents shall only be produced for the financial years ended;
- b) a certificate issued by the competent administrative authorities, listing the fields in which the company is licenced to perform and the risks it effectively covers and stating it is incorporated and operating in its country of origin in accordance with the law of such country, favourable opinion issued by the competent authority in the country of origin;
- c) the proposal for the acceptance from the Commission for Insurance Supervision of a natural person as general agent and complying with the provisions set out by the Regional Commission for Insurance Supervision;
- d) a business programme including the documents referred to in f), 1 to 6 of article 806;
- e) proof that the company has in territory of the Member State a branch, underwriting representative or liaison office where it is registered;
- f) Original extract from the register of companies

2°) If requesting an extension of licence, the documents referred to in d) and e) of article 806 and c) and e) of this article are not required.

Article 807

Officers and directors: qualification and professional experience

When reviewing the application, the Commission for the Insurance Supervision takes into account the qualification and experience of persons referred to in e) of article 806. These shall provide a description statement of their business. They specify:

- 1) the nature of their ongoing or previously operated business activities in the last ten years prior to the licence application, indicating the business operated in regulated entities of the financial sector in particular.
- 2) if they were subject to disciplinary sanctions imposed by a supervision authority or by a competent professional organisation or were refused registration with a professional board;
- 3) if they were dismissed or were subject to a similar action for misconduct;
- 4) If they have held office as director or officer in companies that were subject to corrective or winding-up measures, or to measures involving personal bankruptcy and bankruptcies or similar measures abroad.

If these persons have held office during the last ten years in regulated entities of the financial sector, the Commission consults, as necessary, the supervisory authorities of such entities.

In any case, the Board of Directors shall include persons with various complementary qualifications and experience allowing it to efficiently and effectively fulfil its role. These experiences and qualifications shall cover areas like insurance, reinsurance, management, accounting, finance and law.

Article 808

Approval of officers and directors-incompatibilities

In order to be eligible to the position of Chief Executive Officer, applicants shall have either:

- o Higher degree in insurance or actuarial services and proof of experience of minimum five (5) years in a senior management position in an insurance company, insurance brokerage or in an administration for insurance supervision, or



- High education degree in commerce or law with a minimum of five (5) years of experience in a management position in a company of a financial nature, or
- High education degree with a minimum of ten (10) years of experience in a senior management position in a company or administration.

The establishment, administration, management, liquidation of reinsurance companies subject to supervision by the Regional Commission for Insurance Supervision under article 801, may only be performed, in all circumstances, by persons who have not been convicted of any non-political crime, theft, breach of trust, fraud or offence punished by the law with sentences against fraud, removal committed by public depository, extortion, issuing bad cheques in bad faith, damage to the credit of the Member State, handling anything obtained through these offences; any conviction of attempting to commit or participating in the aforementioned offences, or any conviction of imprisonment of at least one year, regardless of the nature of the offence, result in the same incapacity.

Undischarged bankrupts and directors, executive officers of insurance or reinsurance companies and the like that were subject to licence withdrawal are banned under previous paragraph.

These bans can also be imposed by courts against any person convicted of contravention of the law or the insurance regulation

Nevertheless, for the implementation of the bans referred to in previous paragraph against directors, executive officers of insurance or reinsurance companies and the like that were subject to licence withdrawal, the Commission shall take into account their responsibility in the bankruptcy of the respective insurance or reinsurance company.

The Commission may refuse the appointment of a corporate officer failing to comply with the requirements in terms of competence and integrity, even in the absence of any conviction on his criminal record.

Not being subject to the incapacities under this article does not prejudice the appreciation, by the Commission, of the compliance with the necessary requirements for a licence or permission to operate.

Article 808-1 Change of officers and directors

1°) Any licenced company pursuant to article 804 is required to submit to the Commission for approval, any change of office-holders for the president or executive officer positions.

The Commission has three (3) months to decide. No reaction within the expiration of this period implies approval.

2°) Any licenced company pursuant to article 804 is required to notify the Commission, within fifteen (15) days, of any appointment and renewal of the mandate of director.

The Commission may oppose, within three (3) months, appointments and renewals referred to in previous paragraph if it notices that the conditions under articles 807 and 814 are not met, or no longer met.

Article 808-2 Approval of auditors



Any licenced company pursuant to article 804 is required to submit to the Commission for approval any appointment or renewal of appointment of auditors prior making thereof.

Auditors must be included in the list experts certified by the competent jurisdiction of the concerned State or by any authorised organisation.

For this purpose, the reinsurance company shall submit to the Commission a request for approval of auditors that it intends to appoint or reappoint. In case of renewal, this request shall include the minutes of the general assembly of shareholders who proposed such appointment or reappointment.

In case of plurality of auditors, the persons proposed shall not be part of the same bureau or structures that are connected.

The Commission has three (3) months to issue an opinion. The absence of response within the stipulated period implies acceptance.

If considered necessary, the Commission may request additional information other than those referred to in article 806 g).

In case of a negative opinion, the decision is justified. It may be based on the fact that the proposed auditor or the natural person who has been approached to fulfil the assignment does not have all of the guaranties in terms of experience, skills or independence required for the performance of such duties.

No one may perform duties as auditor of a reinsurance company if the appointment by such company did not receive prior approval from the Commission. The procedure for approval is adopted by the Commission. The approval may be reported by the Commission.

Reinsurance companies shall ensure that the approval from the Commission was received before performing the aforementioned duties. If not, they commit an offence under the insurance regulation.

Reinsurance companies already operating when these provisions enter into force shall send to the Commission within twelve months from the effective date, the aforementioned information in view of the approval of their auditors.

Article 809: Refusal to licence

Any decision to refuse licence is justified and notified to the company involved.

Article 810: Share capital-financial guarantee

1°) The companies subject to supervision pursuant to article 801 for which the registered office is situated in a Member State shall have a share capital of at least ten billion (10 000 000 000) CFA francs, excluding contributions in kind. Each shareholder shall pay before the final constitution, at least half of the amount in cash of the shares by him subscribed.

The remainder shall be paid within a period not exceeding three (3) years from the registration with the register of companies, in accordance with the terms and conditions stipulated by the statutes or by a decision from the board of directors.

2°) The reinsurance branches subject to supervision pursuant to article 801 and underwriting, representative or liaison offices of reinsurance companies for which the registered office is not situated in the CIMA territories shall, as a guarantee for their business within the CIMA Members States, justify a financial guarantee of at least one billion (1 000 000 000) CFA francs. The sum of the financial guarantee shall not be less than the last annual amount of premiums accepted on risks situated within the CIMA zone.



This guarantee shall be constituted by a deposit of the same amount in a credit institution authorised in a Member State.

3°) Reinsurance companies belonging to a group or insurance companies network only reinsuring the group subsidiary or members of this network, captive reinsurance companies, reinsurance pools shall have a capital of at least one third (1/3) of the share capital prescribed in paragraph 1 of this article. When they don't retain any risks, there is no capital requirement for these entities.

Article 811 Governance of reinsurance companies

Reinsurance companies are subject to the governance rules, when applicable, to the rules enacted by articles 329-7, 331-14 to 331-18 of the Code of Insurance.

In addition, they shall have policies and procedures that cover:

- underwriting by insurance category, by type of risks, by geographical area;
- detection and management of risks and risk accumulation;
- the policy and methods implemented in order to ensure the technical provisions, IBNR in particular are sufficient;
- retrocession policy, identifying procedures on:
 - retrocession for underwriting;
 - retrocessionnaire selection, including their quality assessment;
 - retrocession limits by retrocessionnaire;
 - risk tolerance threshold;
 - collaterals that may be required;
 - retrocession programme monitoring.

Article 811-1 Auditor's obligations

Notwithstanding their legal obligations, auditors of reinsurance companies are required to:

- report immediately to the Commission anything compromising the continuity of operation of the company or the interests of the ceding companies;
- send to the Commission within thirty (30) days from the day the Board of Directors meets to approve the accounts and not later than 1st of June, the report for the said Board;
- send to the Commission their general report for the general assembly of the company they are auditing;

In the case of failure to comply with the obligations listed above, the Commission may ban auditors from operating with reinsurance companies licenced by the Commission.

CHAPTER III COOPERATION AND EXCHANGE OF INFORMATION AGREEMENTS

Article 812



Principle and conditions regulating the performance of reinsurance business activities

No Member State applies to reinsurance companies with registered office outside the CIMA zone and starting or conducting reinsurance business on its territory, provisions implying a more favourable treatment than the treatment reserved for reinsurance companies with registered office in its territory.

Provisions of the previous paragraph do not apply to multilateral or pan-African reinsurance companies of which one or more CIMA Member States are part.

Article 813

Agreements with third countries

1) The Commission and the General Secretariat may submit to the Council of Ministers of Insurance provisions with a view to negotiate and make agreements with third countries and related to methods of supervision and exchange of information with regard to :

- a. insurance or reinsurance companies with registered office in a third country and operating in the field of reinsurance in a Member State;
- b. insurance or reinsurance companies with registered office in a Member State and operating in the field of reinsurance in the territory of a third country;
- c. persons occupying the position of officer or director in the aforementioned companies.

2) The agreements in paragraph 1) aim at ensuring mutual recognition of supervisory rules and practices on reinsurance supervision. Subject to equivalence of these rules and practices, they aim at allowing:

- a. effective prudential supervision of the safety of reinsurance operations,
- b. effective access to insurance and reinsurance companies to reinsurance operations of each contracting party,
- c. the General Secretariat of CIMA to obtain the information required for the supervision of insurance or reinsurance companies with registered office in the CIMA zone and conducting reinsurance business in the territory of third countries concerned;
- d. the competent authorities of such third countries to obtain, subject to confidentiality, the information required for the supervision of insurance or reinsurance companies with registered office in their territory and conducting reinsurance business in a Member State.

3) If the Commission or the General Secretariat have been mandated to negotiate or conclude an agreement as referred to in paragraph 1) they report on the negotiations and any agreement reached in the Council of Ministers. When an agreement is reached, the General Secretariat provides assessment on a regular basis of the effects of the agreement, and reports it to the Commission and to the Council of Ministers.

4) For these agreements:

- a. At the request of the host supervisor, the home supervisor shall provide relevant financial and prudential information, including information on persons holding a management position with the reinsurer, as long as these information are relevant for the responsibilities of the host supervisor;



- b. also, at the request of the home supervisor, the host supervisor shall provide any relevant financial or prudential information, including information concerning individuals;
- c. The home supervisor shall, on his own initiative, notify the host supervisor of any change creating a significant impact on the business of the reinsurer. The home supervisor shall, in particular, notify the host supervisor when withdrawing a licence or taking measures that are likely to affect the reinsurer business in this jurisdiction;
- d. also, the host supervisor shall notify the home supervisor of any situation or issue that could affect the reinsurer.
- e. Each supervisor is committed to respect the privacy of the information received from another supervisor.

CHAPTER IV

FINANCIAL SCHEME

Article 814

Regulated undertakings

Companies referred to in articles 801 and 804 shall, at any time, be able to justify the assessment of the following regulated undertakings:

- 1) sufficient technical provisions for the full settlement of their undertakings towards reinsured companies;
- 2) liabilities corresponding to the other preferential claims;
- 3) security deposits of reinsured companies and third parties, if any;
- 4) pension reserve in favour of employees and agents to meet the commitments undertaken by the company towards its personnel and members.

Article 814-1

Constitution of technical provisions

Any reinsurance company shall establish adequate technical provisions, for all its activities.

The technical provisions corresponding to the accepted reinsurance operations are the following:

- 1) mathematical provision: difference between the expected current values of undertakings accepted by the insurer and the insured respectively;
- 2) provision for deferred acquisition costs: provision to cover costs resulting from the deferment of acquisition costs;
- 3) provision for outstanding risks: part of the premiums corresponding to the period still to cover for a contract or a set of contracts after the end of the considered financial year and until the guarantee expires;
- 4) provision for claims outstanding: estimate of either internal or external costs, required for the settlement of all the claims occurred and still to be settled, including annuities not charged to the company yet.
- 5) provision for increasing risks: provision for insurance operations towards health and incapacity risks and equal to the difference of current values from undertakings accepted by the insurer and insured respectively;
- 6) equalisation provision: provision to cover the extraordinary charges related to operations insuring natural hazards, nuclear risk, civil liability risk due to pollution and space risk;
- 7) management provision: to cover future management costs of contracts and not otherwise covered;
- 8) provision for participation in profits



- a. sum charged to the reinsurer for the participations allocated by the insurer to the contract beneficiaries when these profits are not payable immediately after liquidation of the financial year that generated such profits;
 - b. sum charged to the reinsurer for the profits corresponding to the contract binding it to the insurer;
- 9) Any other technical provisions set out by the Commission or charged to the reinsurers by the ceding companies.

Article 815
Assets covering regulated undertakings

1) Any reinsurance company is required to invest in assets covering regulated undertakings in accordance with the following rules:

- a. assets take into account the type of operations performed by the reinsurance company, in particular the nature, amount and duration of expected claims, in such a way as to secure the sufficiency, liquidity, security, quality, efficiency and matching of the investments it makes;
- b. The reinsurance company ensures the assets are diversified and adequately spread allowing it to respond to changing economic circumstances, in particular developments in the financial and real estate markets or to major catastrophic events. The company evaluates the impact of irregular economic circumstances on its assets and diversifies its asset portfolio so as to reduce this impact;
- c. investments in assets not traded on a regulated financial market shall, in any event, be kept to prudent levels;
- d. investments in derivative instruments shall be possible to the extent that they contribute to reducing investment risks or allowing an efficient management of the portfolio. They shall be valued on a prudent basis, taking into account underlying assets and included in the assets valuation of the reinsurance company. The company shall also avoid excessive exposure to risks associated with a single counterparty and other derivative operations;
- e. the assets shall be properly diversified in such way as to avoid relying excessively on a single asset, issuer or group of companies and accumulation of risks in its portfolio as a whole. Investments in assets issued by the same issuer or by issuers belonging to the same group shall not expose the company to excessive risk concentration;
- f. deposits with ceding companies are accepted as a coverage for the regulated undertakings.

2) Notwithstanding 1) of this article, the Commission may, including when it considers that the investment policy of a reinsurance company does no longer meet the conditions mentioned in 1, or if the control by company of its financial risks is poor, establish rules, in terms of limitation, security and assets spreading acceptable to cover the technical provisions.



Article 816
Solvency margin-Principle and minimum requirement

Any company subject to supervision under article 801 shall justify the existence of a sufficient solvency margin, with regard to all of its activities.

The value for the requirement of solvency margin is calculated on the same basis as for insurance limited companies set out in article 337-2 and following of the Code of Insurance.

Article 817
Constitutive elements for the solvency margin

The constitutive elements of the reinsurance solvency are the same as those stipulated in article 337-1 of the Code of Insurance for insurance limited companies.

Article 818
Recovery plan

When a reinsurance company subject to supervision does not comply with the provisions in articles 815 and 816, the Commission requests the submission within two months of:

- a recovery plan indicating all the measures aimed at restoring within three months, a coverage in accordance with the regulation, if the company does not comply with the regulation on technical provisions;
- a short-term financing plan capable of restoring within three months, the solvency margin, if less than the minimum required by the regulation.

The Regional Commission for Insurance Supervision may extend the aforementioned periods.

It may prohibit or restrict the free disposal of assets of the company and appoint one or more auditors to keep the company under continuous supervision. These auditors, selected amongst the auditors of the Commission or the National Office for Insurance in the country where the company has its registered office shall ensure the recovery plan is executed. They have the most extensive rights of investigation for this purpose. They shall also be immediately notified of all decisions taken by the board of directors or by the management of the company.

If the company does not submit the plan in a timely manner, or if the submitted plan does not meet the approval from the Commission, or if the approved programme is not executed in accordance with the prescribed conditions and time limits, the Commission imposes sanctions under article 822.

Article 819
Governance of reinsurance companies



Costs of all nature resulting from the implementation of the provisions included in this book are covered through contribution, the amount and payment options of which are set out in a Regulation from the Council of Ministers.

All reinsurance companies, branch, underwriting, representative or liaison offices of foreign reinsurance companies established in the CIMA zone are liable for supervision costs.

The accepted premiums and contributions form the basis for contribution. Retrocessions are not deducted. The basis corresponds to all of the premiums accepted in the CIMA zone. It does not include retrocessions concluded between reinsurers established in the CIMA zone.

The rates to be applied to the basis will be determined by the Council of Ministers for insurance.

Supervision costs are paid directly to the General Secretariat of CIMA.

Article 820 **Liquidation, applicable rules**

The liquidation of reinsurance companies subject to supervision from the Regional Commission for Insurance Supervision is governed by the provisions of articles 325 to 325-13 of the Code of Insurance, except articles 325-10, 325-11 and 325-12.

Article 821 **Liquidation, conclusion**

The court pronounces the end of the liquidation on the report from supervisory judge when all the creditors have been reimbursed or when the course of the operations is stopped due to a shortfall in assets.

Article 822: Sanctions

a) When the Commission detects an infringement of the regulation committed by a company subject to supervision, it imposes the following disciplinary sanctions:

- warning;
- reprimand;
- restriction or prohibition for part or all of the operations;
- any other restrictions for the exercise of their profession;
- suspension or compulsory retirement of directors, officers or managers;
- withdrawal of licence.

It may also impose fines under the conditions set out in articles 823 and following.

b) For the execution of the sanctions it imposed, the Commission may appoint an interim administrator.

When the decisions from the Commission require the appointment of a liquidator it submits a request to do so to the President of the Court having jurisdiction and notifies the Minister in charge of Insurance.

Article 823



Administrative sanctions-Fines

When a reinsurance company or branch, underwriting, representative or liaison office subject to supervision does not provide within the required period the supervision reports under the insurance regulation or does not execute its injunctions within the required period,

or in the event of any breach to the insurance regulation committed by a company, an officer or director, the Regional Commission for Insurance Supervision may impose a fine, the amount of which varies depending on the seriousness of the infringement, between 0.1% and 2% of the basis of premiums or contributions calculated on the same basis as for the contributions set out in article 819.

Article 824

Administrative sanctions-Periodic penalty payment

In the event of late payment of the fine, the company shall be required to comply, subject to periodic penalty payments, the amount of which is set per day's delay, from the due date for such fine, to:

- fifty thousand (50 000) CFA francs during the first fifteen days;
- one hundred thousand (100 000) CFA francs during the next fifteen days;
- one hundred and fifty thousand (150 000) CFA francs afterwards.

Article 825: Recovery

The fines and daily penalties under articles 823 and 824 shall be recovered by the Regional Commission for Insurance Supervision
They are added to the contributions to supervision costs under article 819.

Article 826

Contraventions of article 808

Contraventions of the provisions of article 808 shall be punished with imprisonment from six (6) months to two (2) years and a fine of three hundred thousand (300 000) to three million (3 000 000) CFA francs or with only one of these two penalties.

Article 827: Sanctions

Corporate executives may be punished by imprisonment from eight (8) to fifteen (15) days and a fine from eight thousand (8 000) to three hundred and sixty thousand (360 000) CFA francs or only one of these two penalties when failing to recognise the obligations or prohibitions arising from articles 401, 404, 808-1 and 815 of the Code of Insurance or when obstructing the supervision.

In the event of a repeated infringement, the sentence of imprisonment may be increased to one (1) month and the fine from three hundred and sixty thousand (360 000) to seven million and two hundred thousand (7 200 000) CFA francs.

Article 828 Corporate executive, notion

For the implementation of penalties listed in previous regulation, corporate executives include the chief executive officer, the president, directors, executive officers, deputy executive officers,



administrators and any de facto manager of a company in a Member State, and in the case of a foreign company, the general representative.

Article 829: Bankruptcy

If the financial situation of the reinsurance company dissolved by a full withdrawal of licence is such that it no longer offers sufficient guarantees for the fulfilment of its commitments, bankruptcy with irregularities deemed a breach of the law shall be pronounced against the president, directors, executive officers, managing directors, administrators, managers or liquidators of the company regardless of its form and,

in general, any person who, directly or through another person, has administered, managed or liquidated the company, under the cover or on behalf of his legal representatives who, in this capacity and in bad faith:

- 1) either has used large sums belonging to the company for mere chance or fictitious transactions;
- 2) or, in order to delay the withdrawal of licence of the company, have used ruinous resources to raise funds;
- 3) or, after the withdrawal of licence of the company, has unlawfully paid or charged a creditor;
- 4) or has made the company enter into, for the account of a third party, without receiving any values in return, excessive commitments in view of its situation at the time it entered into in such commitments;
- 5) or has unlawfully kept or had kept or allowed to keep the accounts;
- 6) or, in order to protect part or all of his property from the prosecution of the company in liquidation or of members or company creditors, has misappropriated or concealed, attempted to misappropriate or conceal part of his property or declared himself debtors of sums which he did not owe.

The sentence of fraudulent bankruptcy shall apply to the aforementioned persons who have fraudulently:

- 1) either removed books of the company;
- 2) or misappropriated or concealed part of its assets;
- 3) or declared the company debtor of sums which it did not owe, either in the records or in public documents or private commitments, or in the balance sheet.

Article 830: Liquidator, prohibitions

The liquidator and all those who took part in the administration of the liquidation shall be forbidden from personally acquiring, either directly or indirectly, by private sale or sale by court order, all or part of the movable or immovable assets of the company in liquidation.

Penalties for breach of trust shall be applied to any liquidator or any other person who took part in the administration of the liquidation and who, in breach of the provisions of the preceding paragraph, acquired on his behalf, directly or indirectly, properties owned by the company.

The same penalties shall be applied to any liquidator who becomes guilty of embezzlement in his management.

Article 831 Sentencing, publications



All judgements and sentences pronounced pursuant to articles 829 and 830 second paragraph, shall be posted and published, at the expense of the convicted person, in a journal authorised to carry legal notices.

In case of conviction, the Treasury may only lodge an appeal against the debtor after the liquidation is concluded.

Article 832
Prosecution costs, charge

The costs for prosecution instituted by a creditor shall be charged, in case of conviction, to the Treasury, except in the case of an appeal against the debtor under the conditions in articles 831, in case of discharge, to the prosecuting creditor.

Article 833
Sanctions in case of liquidation of branches from foreign companies

The provisions in articles 829 a832 are applicable for the liquidation of the assets and liabilities in the specific balance sheet of operations for a foreign company the registered office of which is not in the territory of a Member State.

Article 834
Sanctions with regard to rules related to the constitution and underwritings

Imprisonment from one (1) to five (5) years and a fine from three hundred and sixty thousand (360 000) to seven million and two hundred thousand (7 200 000) CFA francs or only one of these two penalties shall be applied to those who deliberately made fraudulent statements or concealments in any document produced to the Commission for Insurance Supervision, National Office for Insurance or made known to the public.

Article 835
Sanctions with regard to operating rules

Imprisonment from one (1) to five (5) years and a fine from three hundred and sixty thousand (360 000) to seven million and two hundred thousand (7 200 000) CFA francs, or only one of these two penalties shall be applied to the president, directors, managers or executive officers of companies referred to in articles 801 and 804 who:

- 1) have deliberately published or submitted inaccurate financial results to the general assembly in order to conceal the real situation of the company;
- 2) have used assets or credits of the companies, the use of which, to their knowledge, was against its interests, for personal purposes or to favour another company they were directly or indirectly interested in;
- 3) in bad faith, have used powers they had or votes allocated to them in their capacity, the use of which, to their knowledge, was against the interests of the company,
- 4) for personal purposes or to favour another company in which they have interests directly or indirectly.



The provisions of this article shall be applicable to any person who, directly or through another person, has served as officer, administrator or manager in such companies, under the cover or on behalf of their legal representative.

Article 836
Sanction with regard to liquidation rules

In case of liquidation, the following provisions apply:

- 1) if the financial situation of the reinsurance company dissolved pursuant to the total withdrawal of the accreditation shows insufficient assets towards the assets to be paid for the liquidation process, the court may, if a failure of management contributed to this insufficiency, decide at the request of the liquidator or even on its own initiative that the debt of the company shall be partially or fully borne, in solidarity or not, by all of the ipso jure or de facto officers whether compensated or not, or by some of them.
- 2) the action lapses after three (3) years from the lodgement at the Registry of the eighth quarterly report from the liquidator;
- 3) The officers who are found guilty of actions referred to in article 829 may be subject to sanctions provided for in the event of personal bankruptcy.

Article 837
Sanction for rules with regard to contribution and failure to produce documents to the supervision authorities

Any contravention of the provisions of article 819 shall be punished with a fine from one hundred and eighty thousand (180 000) to three hundred and sixty thousand (360 000) CFA francs.

The same sanctions are applicable in the event of a failure to produce documents to the Regional Commission for Insurance Supervision and to National Offices for Insurance.

Article 838
Infringement to rules with regard to the form of companies, publicity, licence and back-up procedures

Any infringement of the provisions in article 802 and 804 shall be punished with imprisonment from one (1) month to five (5) years and a fine from three hundred and sixty thousand (360 000) to three million and six hundred thousand (3 600 000) CFA francs or only one of these two penalties.

Article 839
Impediment - sanctions

Any impediment to the performance of duties of the Regional Commission for Insurance Supervision or insurance supervisors shall be liable to imprisonment from one (1) month to six (6) months and a fine from three hundred and sixty thousand (360 000) to one million (1 000 000) CFA francs or one of these two penalties.

Article 840
Publication of sanctions



The Regional Commission for Insurance Supervision publishes the sanction decisions in the Official Gazette of CIMA.

Decisions from the Regional Commission for Insurance Supervision imposing a pecuniary obligation on natural or legal persons shall be enforceable and published in the Official Gazette of CIMA.

Sentences referred to in previous paragraphs may also be published in a journal authorised to carry legal notices of the Member State of the punished company or the Member State of the company whose manager is punished at the expense of the company.

Article 841

Referral to the prosecutor

If the Regional Commission for Insurance Supervision, during the performance of its duties, obtains knowledge of a crime or an offence, it may notify the competent public prosecutor without delay and transfer to the prosecutor all the associated information, minutes and acts.

Article 842

Transmission and publication of the sentence

Any judgement or sentence pronounced pursuant to the referral from the Regional Commission for Insurance Supervision is submitted to the General Secretariat of CIMA in charge of the publication.

TITLE II

ACCOUNTING RULES APPLICABLE TO REINSURANCE COMPANIES

Article 843

Transitional provision

Pending the establishment of the accounting rules specific to reinsurance companies, these must continue to apply the accounting rules to which they were subject.

Article 2: Transitional provisions

Companies offering reinsurance transactions before these provisions enter into force have five (5) years to comply with the provisions of article 810.

Reinsurance branches, underwriting, representative or liaison offices offering reinsurance transactions before these provisions enter into force have two (2) years to constitute the financial guarantee set forth in article 810.

Companies offering reinsurance transactions before these provisions enter into force have two (2) years to comply with the form provided for in article 802.



Reinsurance companies, reinsurance branches, underwriting, representative or liaison offices offering reinsurance transactions before these provisions enter into force have one year to provide the Regional Commission for Insurance Supervision and the Minister in charge of Insurance in the Member State with the following elements:

1) General information include:

- a) business name of the company, date of its constitution, address of its registered office and of its specific office in the country concerned and, when applicable, date of the licence;
- b) name, address, nationality and profession of the members of the Board of Directors, administrators and the authorised agent or his legal representative ; date of acceptance of the authorised agent;
- c) business name of the parent company if any, and the list of the subsidiaries ;
- d) the list of the operated branches;
- e) the list of the agreements concluded with other reinsurance companies in terms of rates, professional organisation, competition or financial management as well as the list of the administrative or commercial agreements with other insurance or reinsurance companies;
- f) the list of the natural or legal persons who acted as guarantors for the company ;
- g) a statement specifying the company did not act as guarantor for any natural or legal person or, otherwise, the name of the persons for whom the company acted as guarantor and the amount of the guaranteed commitments; a statement specifying the company did not make any commitments for forward sales or purchases and did not sign any agreements to sell or purchase, or, otherwise, the statement of the amount of such subscribed commitments outstanding on 31 December.
- h) a table indicating the number, at the last day of the financial year, of the salaried staff of the company in the country concerned broken down into "management staff", "supervisors", "employees", "total number of salaried staff in the country concerned".

2) the following additional documents :

- a) balance sheets, operating accounts and profits and loss accounts for all the operations in the last three financial years;
- b) one of the two original memorandum of association of the company or an authenticated copy;
- c) two copies of the statutes;
- d) police clearance certificate not older than three months or an equivalent document issued by a competent judicial or administrative authority of the directors and officers, as well as any person requested to perform equivalent duties;
- e) the guiding principles followed in terms of retrocession;
- f) supporting documentation of the proper governance and management of risks, in particular the procedures manual, underwriting guide, risk management policy, governance framework;



g) original extract from the register of companies

Subject to the provisions set forth in previous paragraphs, companies offering reinsurance transactions before this book entered into force have one year to comply.

Done at Bamako, 09 April 2015
For the Council of Ministers

The president

[stamp and signature]

Jean-Gustave SANON