

LEGAL NOTICE NO. 325 OF 2020

THE INSURANCE ACT, 2005
(Act No. 7 of 2005)

THE MICRO INSURANCE REGULATIONS, 2020
(Under Section 118)

In exercise of the powers conferred by Section 118 of the Insurance Act, the Minister for Finance makes the following Regulations –

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[Bank's Name, and Address of Issuing Branch or Office]

Beneficiary: _____ [Name and Address of Employer]

Date: _____

ADVANCE PAYMENT GUARANTEE No.: _____

We have been informed that [name of Contractor] (hereinafter called "the Contractor") has entered into Contract No. [reference number of the contract] dated _____ with you, for the execution of [name of contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum [amount in figures] (_____) [amount in words] is to be made against an advance payment guarantee.

At the request of the Contractor, we [name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [amount in figures] (_____) [amount in words] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above shall have been received by the Contractor on its account number _____ at _____ [name and address of Bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that eighty (80) percent of the Contract Price has been certified for payment, or on the ____ day of _____, 2____, whichever is earlier. Consequently, any demand for payment under this guarantee shall be received by us at this office on or before that date.

Yours truly,

Signature and seal:

Name of Bank/Financial Institution:

Address:

Date:

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**PART I
PRELIMINARY PROVISIONS**

Citation and commencement

1. (1) These Regulations may be cited as the Micro Insurance Regulations, 2020.

(2) These Regulations shall come into operation on the date of publication in the Government gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires –

“Act” means the Insurance Act, 2005;

“actuary” means an actuary as defined in the Act;

“advertisement”, in relation to an insurer or micro insurer, micro insurance agent or insurance broker means any written, printed, electronic or oral communication to the general public, or any section thereof, by any such person, containing information on or a notice of, or calling attention to, insurance services offered by such person, and includes any marketing or promotional material in whatever form directed to the general public or any section thereof, or to any client on request, relating to such services; and the term “advertising” shall be construed as such;

“client” means any person holding a micro insurance policy, and includes any such prospective policy holder and, in respect of disclosures required to be made in terms of the Code of Conduct about any micro insurance product, any person requesting such disclosures;

“insurance agent” means an individual or corporate insurance agent as defined in the Act;

“Insurance Regulations” means the Insurance Regulations 2008;

“micro insurer” means a person registered in terms of the Act;

“micro insurance agent” means a natural or juristic person who is appointed by an insurer, micro insurer or insurance broker to act as a micro insurance agent for distribution of micro insurance products and includes a corporate micro insurance agent and individual micro insurance agent.

“micro insurance product” means an insurance product filed with and approved by the Registrar as a micro insurance product with benefit limits as defined in First Schedule and includes an assistance policy as defined in the Act;

“officer” means officer as defined in the Act;

“premium” means premium as defined in the Act;

“principal representative”, in relation to a corporate micro insurance agent means the natural person responsible for managing or overseeing the activities of the organisation;

“rider benefit” means a benefit under an insurance policy that is purchased in conjunction with the basic policy and at additional cost, subject to the following conditions –

- (a) the term of the rider benefit shall not exceed that of the basic policy; and
- (b) the rider shall terminate if the basic policy to which it is attached terminates.

“specified person” means an employee or an insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent who is responsible for initiating micro insurance business only;

“valuator” means a valuator as defined in the Act; and

“writing” includes communication by telefax or any appropriate electronic medium, which is accurately and readily reducible to written or printed form; and “written” shall be construed as such.

PART II MICRO INSURANCE AGENTS AND SPECIFIED PERSONS

Prohibition of unregistered micro insurance agents and specified persons

3. (1) A person shall not act as a micro insurance agent unless the person -
 - (a) is registered as a micro insurance agent in terms of these Regulations; and
 - (b) carries on business in accordance with the Act and these Regulations.
- (2) A person shall not act as a specified person unless the person is an employee of an insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent and is registered as a specified person in terms of these Regulations.
- (3) An insurer or micro insurer undertaking insurance business in Swaziland shall not-
 - (a) permit a person that is not registered as a micro insurance agent to act as a micro insurance agent on behalf of the insurer or micro insurer; and
 - (b) pay commission or compensation to any person for micro insurance services unless that person is a registered micro insurance agent, insurance broker or a specified person.

Requirements for Registration of Micro Insurance Agent

4. (1) A micro insurance agent shall only act as a micro insurance agent for an insurer or micro insurer or insurance broker mentioned in the certificate of registration.
- (2) A person shall not be registered as a micro insurance agent in terms of these Regulations unless the person satisfies the fit and proper requirements established by the Registrar in the Fit and Proper Guidelines for Financial Services Providers.
- (3) An insurance broker shall not engage a corporate micro insurance agent to distribute micro insurance products or to perform micro insurance business on its behalf.
- (4) An application for registration as a micro insurance agent shall be made by the insurer or micro insurer wishing to engage a person as a micro insurance agent.
- (5) An application for registration as a micro insurance agent shall be made in accordance with -
 - (a) form MIA 1B for corporate micro insurance agents; and
 - (b) form MIA 1C for individual micro insurance agents.
- (6) A corporate micro insurance agent shall be -
 - (a) incorporated as a company under the Companies Act, 2009;

- (b) registered as a co-operative either by the Department of Co-operatives or in terms of the Financial Services Regulatory Authority Act, 2010;
- (c) registered in Eswatini as a mutual benefit association established for the mutual benefit of its members; or
- (d) registered in Eswatini as a micro finance institution.

(7) A corporate micro insurance agent shall appoint a principal representative resident in Eswatini who shall be responsible for maintaining the relationship with the insurer or micro insurer.

(8) A corporate micro insurance agent shall establish and maintain adequate operational systems to perform functions of a micro insurance agent.

(9) An individual micro insurance agent shall be resident in Eswatini.

(10) The Registrar may request an applicant to submit additional information as the Registrar may require for considering the application.

Suspension and revocation of registration of a micro insurance agent

5. (1) The Registrar may on good cause shown suspend the registration of a micro insurance agent, and the suspension shall remain effective for the period set out in the notice of suspension.

(2) The Registrar may revoke the registration of a micro insurance agent if it is established that the business of the micro insurance agent is not being conducted in accordance with sound insurance business principles.

Agreements for offering micro insurance products

6. (1) An insurer or micro insurer engaging a micro insurance agent or insurance broker shall issue to that agent or broker a written agency agreement setting out the terms and conditions of service including the duties and responsibilities of both the insurer or micro insurer and the micro insurance agent or insurance broker and the agreement shall be subject to approval by the Registrar.

(2) An insurance broker engaging an individual micro insurance agent shall issue to that agent a written agency agreement setting out the terms and conditions of service including the duties and responsibilities of both the insurance broker and the micro insurance agent.

(3) The agency agreement shall stipulate the categories of products that may be marketed and sold and the services to be provided by the micro insurance agent.

(4) Subject to regulation (7) (1), an agency agreement shall stipulate the functions which the micro insurance agent is authorised to perform, such functions may include -

- (a) collection of proposal forms;
- (b) collection and remittance of premium in the case of corporate micro insurance agents only;
- (c) distribution of policy documents;

- (d) maintenance of a register of all policy holders and their dependants as specified under the Code of Conduct set out in the Forth Schedule;
- (e) assistance with administrative procedures for the submission of claims;
- (f) procedure for ensuring that policy holders nominate beneficiaries; and
- (g) any policy administration service.

(5) Where the micro insurance agent is entitled to collect premiums on behalf of the insurer or micro insurer, the agency agreement shall set out the responsibilities of the micro insurance agent with respect to premium collection clearly.

(6) A micro insurance agent who is authorised to collect premiums shall remit to the insurer or micro insurer all premiums due to the insurer or micro insurer within fifteen (15) days from the date of inception of the cover or the date on which the policy is renewable or such earlier date as may be stipulated in the agency agreement.

(7) The agency agreement shall stipulate conditions for termination of the agreement.

(8) An insurer or micro insurer shall suspend or terminate an agency agreement with a micro insurance agent or insurance broker where -

- (a) the registration of the micro insurance agent or insurance broker has been suspended or revoked by the Registrar; or
- (b) the micro insurance agent or insurance broker has been found guilty of any misconduct or financial crime by the Registrar or any court of law.

(9) An insurer or micro insurer shall notify the Registrar within thirty (30) days of suspension or termination of the agency agreement and shall, specify the reasons for the suspension or termination.

Collection of premiums

7. (1) An individual micro insurance agent shall not collect premiums except for the first premium under a policy.

(2) A corporate micro insurance agent may not receive, hold or in any other manner deal with premiums payable under a policy entered into with an insurer or micro insurer.

(3) An insurer or micro insurer shall not permit a micro insurance agent to so receive, hold or in any other manner deal with premiums unless authorised to do so -

- (a) through an agency agreement with the insurer or micro insurer concerned; and
- (b) in accordance with these Regulations.

(4) A corporate micro insurance agent shall open and maintain a trust account with a registered bank registered in terms of the Financial Institutions Act, 2005, or its successor, if the corporate micro insurance agent is permitted to collect premiums on behalf of an insurer or micro insurer under a micro insurance agency agreement.

(5) The trust account referred to in sub-regulation (4) shall be separate from any account which the corporate micro insurance agent may open and maintain for the keeping of its own funds.

(6) The corporate micro insurance agent shall remit to the insurer or micro insurer premiums collected within (15) fifteen days of receipt of the premiums or such earlier date as may be stipulated in the agency agreement.

(7) The obligations of an insurer or micro insurer to provide policy benefits under a policy commences on the receipt of the first premium by the insurer or micro insurer or when satisfactory arrangements have been made for the provision of the premium.

(8) Where the micro insurance agent receives premiums on behalf of the insurer or micro insurer under a micro insurance agency agreement, the receipt of premiums by the micro insurance agent shall be considered to be receipt of premiums by the insurer or micro insurer.

Commission for services rendered

8. (1) An insurer or micro insurer shall pay a micro insurance agent or insurance broker commission for the services rendered as set out in the agency agreement.

(2) Commission paid by an insurer to a micro insurance agent for services rendered shall be reasonable and commensurate with actual cost of services rendered.

(3) The maximum commission for micro insurance policies shall be twenty five percent (25%) of premiums per year payable as and when the premium is received.

(4) The Registrar may approve payment of commission higher than twenty five percent (25%) of premiums on application by an insurer in circumstances where a micro insurance agent or insurance broker performs significant administration services for the insurer or micro insurer.

Payment of levies

9. A micro insurer and a micro insurance agent shall pay levies annually to the Registrar in terms of the Fifth Schedule.

Specified persons

10. (1) An insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent may employ specified persons responsible for initiating micro insurance business.

(2) A specified person employed in terms of sub-regulation (1) shall not initiate micro insurance business unless the specified person complies with the requirements of these Regulations and has been approved by the Registrar.

(3) A specified person employed in terms of sub-regulation (1) shall be a natural person whose remuneration may be in the form of wages or a salary, commission or a combination of wages or salary and commission.

(4) A specified person shall not be employed by more than one insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent.

(5) Every insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent shall issue to each specified person an identity document stating the name of the specified person, name of the employer, the class or classes of business the specified person is authorised to transact and whether the specified person is empowered to collect premiums.

(6) Every specified person shall undergo training provided by the insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent as prescribed in Regulation 11.

(7) Every specified person shall at all times comply with the relevant financial services laws, regulations and Codes of Conduct.

(8) An insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent shall establish, maintain and follow procedures to ensure that specified persons comply with the relevant financial services laws, regulations, code of conduct and fit and proper guidelines.

(9) An insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent shall be liable for the acts or omissions of a specified person where the act or omission relate to micro insurance activities that fall within the area of authority of the specified person.

(10) Nothing in this regulation shall be construed to prevent an insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent from seeking redress against a specified person as a result of the liability arising under sub-regulation (9).

(11) A specified person who fails to comply with the relevant financial services laws, regulations, Code of Conduct and Fit and Proper Guidelines shall be subject to disciplinary action by the Registrar.

Training of micro insurance agents and specified persons

11. (1) An insurer, micro insurer or insurance broker shall conduct training of all micro insurance agents and specified persons with focus on product information, the Code of Conduct, consumer protection, premium collection and record keeping.

(2) Where a specified person is employed by a corporate insurance agent or a corporate micro insurance agent, the corporate insurance agent or corporate micro insurance agent shall train the specified person in terms of sub-regulation (1).

(3) The training shall be conducted by competent facilitators who are knowledgeable in the subject of micro insurance.

(4) An insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent shall keep a record of all micro insurance agents and specified persons who complete the training course.

(5) An insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent shall review a sample of the documentation produced by a specified person or micro insurance agent for the first two months that the specified person or micro insurance agent is rendering services.

Record keeping and reporting

12. (1) An insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agents shall keep a register of its micro insurance agents and specified persons detailing the name, business address, contact details and the categories of products and services that the micro insurance agent or specified person is authorised to either market or render on behalf of the insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent.

(2) The insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent shall keep copies of all agreements and registers of micro insurance agents and specified persons for inspection by the Registrar.

(3) Records of agreements and supporting information for micro insurance agents, insurance brokers and specified persons shall be kept for a period of at least five (5) years from the termination of the agency agreement.

(4) An insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent shall be required to report the details of its micro insurance agents and specified persons to the Registrar as part of its annual returns, in a manner prescribed by the Registrar.

Compliance

13. (1) An insurer or micro insurer shall put in place satisfactory measures to ensure that micro insurance agents are competent to render agency services for micro insurance business.

(2) An insurer or micro insurer shall establish, maintain and follow procedures to ensure that micro insurance agents comply with the relevant financial services laws, regulations and codes of conduct.

(3) A person who employs a micro insurance agent or specified person shall be liable for the acts and omissions of the micro insurance agent or specified person where the act or omission falls within the area of authority of the micro insurance agent or specified person in terms of a written agreement.

(4) Nothing in this regulation shall be construed to prevent an insurer, micro insurer or insurance broker from seeking redress against a micro insurance agent as a result of the liability arising under sub-regulation (3).

PART III
MICRO INSURANCE PRODUCTS

Prohibition of sale of insurance products as micro insurance products

14. An insurer or micro insurer shall not underwrite or market an insurance product as a micro insurance product or enter into a micro insurance contract unless the Registrar has approved the product as a micro insurance product in terms of these Regulations.

Designation of insurance product as micro insurance product

15. (1) An insurer or micro insurer may designate and market an insurance product as a micro insurance product if the micro insurance contract meets the criteria specified in sub-regulation (2).

(2) For purpose of sub regulation (1), an insurer or micro insurer shall use the following criteria to determine whether an insurance product may be designed as a micro insurance product:

- (a) the insurance product shall be designed and developed with the intention of meeting the needs of, and being marketed and sold to –
 - (i) low income earning persons generally;
 - (ii) specific types or description of low income earning persons; or
 - (iii) low income earning persons in particular geographic area;
- (b) the premiums charged under the insurance product shall be affordable for those low income earning persons for whom it was designed and developed; and
- (c) the insurance product shall be available and accessible to those low income earning persons for whom it was designed and developed.

(3) Where an insurer or micro insurer determines that an insurance product is a micro insurance product, it shall make a written record of the assessment that it has undertaken against the criteria, detailing the basis on which it made the determination and how the insurance product meets the criteria.

(4) The insurer or micro insurer shall retain each written record of assessment until at least five (5) years after the insurer or micro insurer ceases to market or sell the micro insurance product.

Requirements for submission of products

16. (1) An insurer or micro insurer shall apply to the Registrar for the approval of an insurance product as a micro insurance product.

(2) An application in terms of this Regulation shall be accompanied by -

- (a) particulars of the new micro insurance product including any enhancements or modifications if the product is an existing product;
- (b) a specimen policy documents relating to the product for which approval is sought;
- (c) the policy summary;
- (d) the written record of assessment made by the insurer under Regulation 15;
- (e) the product brochure or other sales literature; and
- (f) supporting documents as the Registrar may specify.

(3) The following additional documents shall be submitted with the micro insurance product -

- (a) a report from the Valuator of the insurer or micro insurer on the suitability of the policy terms and premium rates, for the time being, chargeable by the insurer for micro insurance policy, either long term or short term; and

- (b) a brief description of the product, process for confirmation of policy inception, process for confirmation of receipt of premiums, process for notification of policy renewal, claims process and distribution channel for the product.

(4) Where it appears to the Registrar that a micro insurance product is not appropriate for any reason, the Registrar may -

- (a) prohibit the insurer or micro insurer from offering the product to the public; or
- (b) require the insurer or micro insurer to make such changes to the product as the Registrar may specify -

(5) Where the insurer or micro insurer has submitted all documents required in terms of this regulation and no objection is received within thirty (30) days from the Registrar, the insurer or micro insurer may offer the product as submitted to the public.

(6) The Registrar may require the insurer or micro insurer to make changes to the micro insurance product or order the insurer to withdraw the product where the Registrar considers that-

- (a) the product no longer satisfies, or never satisfied the criteria specified in regulation 15(2); or
- (b) it would be contrary to the public interest for the insurer or micro insurer to continue offering the product.

(7) If the Registrar issues a written notice of withdrawal under sub regulation (6), the insurance product ceases to be a micro insurance product for purposes of these Regulations with effect from the date of the notice.

(8) The Registrar or any employee of the Registrar shall not be liable for any damage or loss suffered by any person as a result of any insurance product filed with the Registrar in terms of this Regulation.

(9) The absence of an objection to a new, enhanced or modified product by the Registrar, shall not constitute approval or endorsement of any aspect of the product by the Registrar.

PART IV POLICY HOLDER PROTECTION, MARKETING AND SALE OF MICRO INSURANCE POLICIES

Policy summary and disclosures

17. (1) An insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent shall provide a written policy summary to all members of a group where the insurance cover is taken out by the group and the insurance cover is mandatory for all group members.

(2) The following information shall be disclosed to policy holders in the written policy summary referred to in sub regulation (1) -

- (a) name of the insurer or micro insurer and the address of its principal office in Eswatini;

- (b) the type of micro insurance policy;
 - (c) a description of the risks and contingent events covered;
 - (d) a description of significant exclusions or limitations;
 - (e) the benefits provided under the policy and the method of payment of benefits;
 - (f) the premium amount due, premium payment frequency and procedure for premium payment and the consequences if premiums are not paid;
 - (g) the duration of the micro insurance policy and renewal process and conditions;
 - (h) claims process, documents required and expected claims settlement time after full documentation is received;
 - (i) terms and conditions, including waiting period and grace period;
 - (j) complaints procedures; and
 - (k) contact details of the insurer or micro insurer, the Registrar's office and the Ombudsman's office.
- (3) Information on the policy summary shall be –
- (a) in plain, simple and easy to understand language;
 - (b) contain a summary of the cover provided by, and the key features of the micro insurance policy; and
 - (c) printed in clear and readable print size, spacing and format.

Credit insurance

18. If a party to a contract in terms of which money is loaned, goods are leased or credit is granted, requires that a policy be taken out for the purpose of protecting the interests of a creditor to the person who is so required to take out the policy shall -

- (a) be given the option of pledging an existing insurance policy or obtaining insurance cover from another insurer; and
- (b) be confirmed in writing that the person has been provided with the option mentioned in paragraph (a) and the insurer, micro insurer, insurance broker, corporate insurance agent or corporate micro insurance agent shall retain proof of this written confirmation for at least three (3) years after the expiration of the policy.

Confirmation of policy and policy renewal

19. (1) A person who enters into a policy or varies a policy shall be provided with confirmation by the insurer or micro insurer concerned of the new or altered policy including the details of the lives or risks insured, and such confirmation shall be in writing or in any other manner

prescribed by the Registrar.

(2) A policy holder shall be provided with such confirmation of the new or altered policy within thirty (30) days of taking out or altering the policy.

(3) Where a policy is lost or destroyed the insurer or micro insurer concerned shall, upon request issue the policy holder with a certified copy of the policy.

(4) Where a policy is automatically renewed, the insurer or micro insurer shall send notices to the policy holder at least (thirty) 30 calendar days before the policy is automatically renewed.

Receipt of premiums

20. (1) Where a premium is paid in cash the insurer, micro insurer, corporate agent or corporate micro insurance agent shall upon payment of the premium issue the policyholder with a receipt which may either be in printed or electronic format.

(2) A receipt issued in terms of this regulation shall specify the policy unique identifier, amount paid and date of payment.

(3) If a premium remains unpaid, the insurer concerned shall notify the policy holder in writing or in another manner as may be prescribed by the Registrar within fifteen (15) days of the due date of the premium that the premium is in arrears as well as the date that the policy will lapse after the grace period has expired.

Fair terms and conditions

21. (1) Policy contract provisions shall be fair and easily understood by policy holders.

(2) Premium rates and rating practices shall not be unfairly discriminatory.

(3) Premium rates that produce higher premium for a category of policy holders or demographic groups that are not justified by an increased risk for the policy holders or groups are unfairly discriminatory.

(4) Policy features shall be applicable to all micro insurance policies and shall comply with the requirements set out in the Third Schedule.

Cancellation of policies and cooling-off period

22. (1) A micro insurance policy may be cancelled by the policy holder within thirty (30) days of the receipt of confirmation of the policy, where no benefit has been paid or claimed or an insured event has not occurred.

(2) Where a micro insurance policy is cancelled in terms of this regulation, the insurer or micro insurer shall as soon as possible refund any premium which has been paid in respect of the policy and the coverage under the policy shall cease immediately.

Client information and maintenance of records

23. (1) An insurance broker, insurance agent or micro insurance agent shall have adequate resources, procedures and technological systems for the proper performance of services in respect of micro insurance business.

(2) An insurance broker, insurance agent or micro insurance agent shall have appropriate procedures and systems in place to keep client records and pass client information on to the insurer or micro insurer.

(3) An insurance broker, insurance agent or micro insurance agent shall provide the insurer or micro insurer with the names and identity numbers of the policy holder, lives insured, beneficiaries, physical address and telephone number of the client, name of the product, premium value and any other information that may be required by the insurer or micro insurer.

(4) An insurance broker, insurance agent or micro insurance agent is required to provide the insurer or micro insurer with a schedule of changes to lives insured, beneficiaries, contact details and claims submitted thirty (30) days after the end of the calendar month.

(5) An insurer, micro insurer, insurance broker, insurance agent, micro insurance agent or individual micro insurance agent may not disclose any confidential information acquired or obtained from a client without the express written consent of the client unless disclosure of the information is required in the public interest or under any law.

(6) An insurer, micro insurer, insurance broker, insurance agent, micro insurance agent shall set up policies and procedures for the handling of customer information and the protection of private information of customers.

Rejection of claims

24. (1) Where a claim under a policy has been rejected, the insurer or micro insurer shall ensure that the policy holder is informed in writing of the reasons for the rejection of the claim within ten (10) days of taking the decision.

(2) The policy holder may within ninety (90) days after the date of the decision make representations to the insurer in respect of such decision.

Complaints and grievance handling

25. (1) An insurer, micro insurer, insurance broker, insurance agent or micro insurance agent shall be accessible to micro insurance clients in case clients have complaints or suggestions.

(2) An insurance broker, insurance agent or micro insurance agent shall refer micro insurance related complaints to the insurer or micro insurer.

(3) The insurer or micro insurer shall ensure that complaints are acted upon within five (5) working days from filing of a complaint along with completion of all documentation requirements and a resolution shall be made within twenty-one (21) working days from such time.

(4) If the complaint is not resolved by the insurer or micro insurer, the complainant may refer the complaint to the office of the Ombudsman of Financial Services within thirty (30) days of the decision of the insurer or micro insurer.

(5) An insurer or micro insurer shall keep records of all material complaints received against the insurer, micro insurer, micro insurance agent, insurance broker or specified persons for a period of at least three (3) years, together with an indication of whether or not any such complaint has been resolved.

(6) For purposes of this regulation, a material complaint means a complaint that relates to a breach of the micro insurance regulations and schedules to these regulations.

Advertising

26. (1) An insurer, micro insurer, insurance broker, insurance agent or micro insurance agent shall avoid any fraudulent and misleading advertising, canvassing and marketing.

(2) An advertisement shall not -

- (a) be unrecognisable as an advertisement;
- (b) be likely to be misunderstood;
- (c) contain any statement or promise which is untrue or misleading; and
- (d) seek to denigrate competitors in such a way as might lower the reputation of the industry, or use language or artwork that would be considered by a reasonable person to be in poor taste.

(3) Where an advertisement, brochure or similar document which relates to the business of an insurer, micro insurer, micro insurance agent or insurance broker is being, or is to be published by a person on behalf of the insurer, micro insurer or micro insurance agent or insurance; is misleading or contrary to the public interest or contains an incorrect statement of fact, the Registrar shall by notice direct that person not to publish or to cease publishing the advertisement, brochure or document or to effect the changes that the Registrar deems fit.

Waiver of rights

27. An insurer, micro insurer, micro insurance agent or insurance broker shall not request or induce in any manner a client to waive any right or benefit conferred on the client by or in terms of any provision of these Regulations or Codes, or recognise, accept or act on any such waiver by the client.

PART V GENERAL

On-going compliance requirements

28. (1) Every insurer, micro insurer or micro insurance agent or insurance broker shall ensure that all transactions in connection with micro insurance business are in accordance with the provisions of the Act and these Regulations.

(2) Every insurer, micro insurer, insurance broker, corporate insurance agent and corporate micro insurance agent shall have a compliance officer function responsible for overseeing the compliance of the entity to these Regulations and other relevant financial services laws;

(3) The compliance officer shall ensure that all directors, managers, micro insurance agent, insurance agents, specified persons and employees who are connected with micro insurance business are made aware of and comply with the financial services legislation, regulations and codes of conduct.

(4) The insurer, micro insurer, insurance broker, corporate insurance agent and micro insurance agent shall keep records of all cases of non-compliance by the entity and reasons for non-compliance with the relevant financial services laws, regulations and codes of conduct for a period of at least three (3) years.

Breach of these Regulations

29. Notwithstanding criminal proceedings instituted against a person registered in terms of these Regulations or the Act, the Registrar may, impose upon a person, an administrative penalty against a person who contravenes any of the provisions in these Regulations or the Code of Conduct.

**PART VI
TRANSITIONAL PROVISIONS AND REGISTRATION OF MICRO INSURERS**

Transitional measures for unregistered micro insurers

30. (1) An unregistered insurance provider that is involved in the carrying out of insurance business shall within three (3) months after commencement of these Regulations;

- (a) register as an insurer or micro insurer under the Act; or
- (b) submit a transitional plan to transfer existing insurance business to a registered insurer or micro insurer.

(2) The Registrar may after consideration of the plan contemplated in sub regulation (1) (b) -

- (a) direct the unregistered insurance provider to make amendments to the plan;
- (b) authorise the unregistered insurance provider to implement the plan; or
- (c) reject the plan and apply to court for an order to have the unregistered insurance provider wound up if the Registrar considers this to be in the interest of policy holders or interest the insurance industry.

(3) A person who fails to comply with this Regulation, commits an offence and shall be liable to pay an administrative penalty in terms of section 68 of the Financial Services Regulatory Act, 2010.

Registration requirements for a micro insurer

31. (1) An application for registration as a micro insurer shall be made in accordance with the form and manner prescribed by the Registrar.

(2) The applicant shall be a juristic person who shall -

- (a) have a minimum paid up share capital or non-distributable reserves of Four Hundred Thousand Emalangeni (E400, 000.00);
- (b) meet capital requirements for the category of business undertaken;
- (c) prove to the satisfaction of the Registrar that the person -

- (i) will carry on micro insurance business as its main object;
- (ii) has sufficient resources to enable that person to conduct micro insurance business; and
- (iii) will comply with the requirements of the Act, Micro Insurance Regulations, any other relevant Regulations, Directives and conditions attached by the Registrar to the registration.

(3) In this Regulation, juristic person means an entity that is –

- (a) incorporated as a company under the Companies Act, 2009;
- (b) registered as a co-operative by the Department of Co-operatives or in terms of the Financial Services Regulatory Authority Act, 2010;
- (c) registered in Eswatini as a mutual benefit association established for the mutual benefit of its members only; or
- (d) registered in Eswatini as a micro finance institution.

(4) A micro insurer that is incorporated as a company shall comply with the following additional requirements –

- (a) at least fifty one percent (51%) of the voting shares are owned by one or more Swati citizens; and
- (b) at least twenty five percent (25%) of the directors of the company shall be resident in Eswatini.

(5) A micro insurer that is registered as a mutual benefit association established for the mutual benefit of its members only shall comply with the following additional requirements -

- (a) at least eighty percent (80%) of its members shall be Swati citizens who shall have a claim to at least fifty one percent (51%) of the assets of the association; and
- (b) all of the officers of the micro insurer shall be Swati citizens.

(6) The Registrar may request an applicant to submit additional information as maybe necessary for the Registrar to make a decision.

Restrictions on business

32. (1) An insurer or micro insurer may only underwrite products that are classified as micro insurance products.

(2) A micro insurer shall comply with the investment restrictions relating to short term insurance business as set out in the Act and Insurance Regulations.

(3) A micro insurer shall not invest in derivative instruments.

(4) An insurer or micro insurer shall keep funds relating to insurance business activities separate from other business activities.

FIRST SCHEDULE**BENEFIT LIMITS FOR MICRO INSURANCE BUSINESS****A. Long term Insurance Business**

Category of Business	Maximum Cover
Life, disability and funeral	E50 000 (double for accidental death or disability) Maximum per life or maximum on life of policy under annuity
Accident and Health	E50 000 Maximum per life or annual limit for highest benefit level

B. Short-term General Insurance Business

Description	Maximum Cover per Risk
Accident and health, guarantee, motor, property, miscellaneous	E 50 000 Home owners: E100 000

SECOND SCHEDULE**REPORTING REQUIREMENTS FOR MICRO INSURER**

1. A micro insurer shall, within four (4) months after the end of its financial year furnish to the Registrar the following information:
 - (a) audited financial statements prepared by the company according to the International Financial Reporting Standards;
 - (b) the annual returns for micro insurers; and
 - (c) Valuator's report.
2. A micro insurer shall submit quarterly returns to the Registrar within thirty (30) days after the end of each quarter.
3. The Registrar may request an applicant to submit additional information as necessary.

THIRD SCHEDULE
FAIR TERMS AND CONDITIONS

1. The following features shall be applicable to all micro insurance policies -
 - (a) Maximum waiting period -
 - (i) of six (6) months for death or disability due to natural causes for policyholders not exceeding the age of sixty five (65) years; and

- (ii) of nine (9) months for death or disability due to natural causes for policyholders not exceeding the age of sixty five (65) years;
 - (b) A waiting period shall not be allowed for accidental death or accidental disability.
 - (c) A waiting period shall not be applied in the case of uninterrupted cover where the policy holder has a prior policy with another insurer.
 - (d) A minimum grace period of sixty (60) days shall be allowed after the due date of the premium. If there is a claim made during such grace period, the outstanding premium shall be deducted from such claim amount.
 - (e) Exclusions shall not be allowed for pre-existing conditions unless the insurer or micro insurer can clearly justify otherwise to the Registrar. The insurer or micro insurer may apply the standard two (2) year suicide exclusion and standard exclusions consistent with exclusions on reinsurance policies.
 - (f) All valid micro insurance claims shall be paid within a period of -
 - (i) seventy-two (72) hours after the insurer or micro insurer received all the requisite documentation for funeral policies; and
 - (ii) ten (10) days after the insurer or micro insurer received all the requisite documentation in respect of other micro insurance policies.
 - (g) Claims may be paid in instalments if this was provided for in the contract.
2. For group insurance cover the insurer or micro insurer may not refuse to renew insurance cover for individual group members, if insurance cover for the group is renewed.
 3. Differences in premium rates for different policy holders shall be based on "fair" discriminatory factors. A discriminatory factor may be deemed to be fair when it meets the following criteria -
 - (a) it is statistically justifiable, based on statistical results from either the Kingdom of Eswatini or a similar market;
 - (b) it is not in contradiction to the laws of the Kingdom of Eswatini; and
 - (c) it is socially acceptable.

FOURTH SCHEDULE

CODE OF CONDUCT WITH RESPECT TO MICRO INSURANCE PROVIDERS

Application

1. This code of conduct shall be applicable to all insurers, micro insurers, micro insurance agents, insurance brokers, corporate insurance brokers and their specified persons in carrying out micro insurance business, who shall be referred to as "micro insurance providers" for purposes of this Code.

Fair practices

2. (1) A micro insurance provider shall -

- (a) conduct business honestly, fairly and in good faith at all times;
- (b) act in the best interests of clients and the integrity of the insurance industry as a whole;
- (c) act with due skill, care and diligence in the exercise of its duties;
- (d) consider the necessity of preserving the dignity of micro insurance policy holders or prospective policy holders at all times; and
- (e) comply with all regulatory requirements applicable to the conduct of its business activities.

2. A micro insurance provider shall not request a client to sign any written or printed form or document unless all details required to be inserted by the client or on behalf of the client have been completed.

Transparency and disclosure

3. An insurer, micro insurer, insurance broker, insurance agent or micro insurance agent shall -

- (a) make adequate disclosure of material information when dealing with clients;
- (b) explain the principal terms of the micro insurance policy to the client, and generally make full and frank disclosure of any information which would reasonably be expected to enable the client to make an informed decision;
- (c) provide the full particulars of the insurer or micro insurer to the client at the policy initiation stage, including, name, physical location, and postal address, telephone, and internet and e-mail address of insurer;
- (d) provide the name of the insurance product and nature and extent of benefits to be provided under the product and the manner in which the benefits will be paid;
- (e) indicate the premium payable for the insurance product;
- (f) explain the nature of information required in the proposal form to the client, and also the importance of the accurate disclosure of material information;
- (g) explain the process of submission of claims and the documentation required at claim stage;
- (h) disclose the amount of commission payable in respect of the insurance product; and
- (i) make a copy of policyholder protection regulations and the code of conduct available to clients.

Product recommendation

4. (1) An insurer, micro insurer, insurance broker, insurance agent or micro insurance agent shall make enquiries to ascertain the client's financial needs and other circumstances, including ability to pay the premium.

(2) The needs analysis for micro insurance products performed by the specified person should cover the following aspects -

- (a) employment and regularity of income;
- (b) number of adult and child dependants and whether the customer may want to include these dependants on the policy;
- (c) whether the customer has any existing insurance cover, including cover through an employer, co-operative, burial society, or through a family policy taken out by another family member;
- (d) total premiums currently paid on other policies; and
- (e) the premium that the customer estimates that he or she could afford.

(3) The needs assessment shall be conducted before recommendations on products or premium levels are given to the customer.

(4) The micro insurance provider may not, in dealing with a client, compare different financial products, but may explain different characteristics of different products, and may not make any inaccurate, unfair or unsubstantiated criticisms of any insurer.

Duties of micro insurance providers to clients

5. (1) The micro insurance provider shall render necessary assistance to the policyholders, claimants or beneficiaries in complying with the requirements for settlement of claims by an insurer.

(2) The micro insurance provider shall assist the policyholder with changes to contact details, beneficiaries and general queries relating to the policy.

Client recourse

6. (1) The micro insurance provider shall make available to the client the names and contact details of the relevant complaints function of the insurer.

(2) The micro insurance provider shall provide details of the procedures which the client should follow in the event of a complaint, including contact details of the Registrar and a brief description of the circumstances in which complaints may be submitted.

(3) A micro insurance provider shall respond to complaints from clients against the micro insurance provider in a timely and fair manner; where such a complaint is not resolved to the satisfaction of the client, the provider shall advise the client of any further steps which may be available to the client in terms of the Act or any other law.

Effect of breach of the code of conduct

7. Breach of any of the requirements of the Code of Conduct will, in the absence of any extenuating circumstances, reflect adversely on the compliance with fit and proper requirements of the micro insurance provider.

FIFTH SCHEDULE**LEVIES PAYABLE BY MICRO INSURERS AND MICRO INSURANCE AGENTS**

1. In terms of Regulation 9, the following levies are payable to the Registrar of Insurance in each year –
 - (a) Micro insurer : 0.07% of assets.
 - (b) Individual micro insurance agent : 1.25% of commission.
 - (c) Corporate micro insurance : 1.25% of commission.
2. The fees are based on the following:
 - (a) Micro insurance business – levy is based on total assets per balance sheet.
 - (b) Micro insurance agency business – levy is based on commission earned.

Appendices**Certification of Compliance for Micro insurance Products by Compliance Officer**
(Name of Insurer)

I certify that

1. The insurance product, _____ (product name strictly complies with the substantive requirements of the Micro Insurance Regulations and other pertinent and guidelines duly issued by the Registrar.
2. The Checklist and Evaluation Sheet accompanying the insurance product herewith submitted were duly accomplished and each entry made thereon is correct and accurate.
3. The Company hereby acknowledges full responsibility and accountability for any wilful misrepresentation and/or any wilful violation committed by any of its officers and/or authorized representative.

(Signature over printed name)

Date

Evaluation Checklist for Micro insurance Product Submissions

Name of insurer or micro insurer

Name of product

Evaluation Checklist for Micro insurance Product Submissions

Name of insurer or micro insurer

Name of product

	Criteria	Comments
1	Product Submission	
1.1	Brief and concise description of the insurance product	
1.2	Policy documents provided to policyholders (2 copies)	
1.3	Rider benefit documentation provided to policyholders	
1.4	Marketing material (2 copies)	
1.5	Gross Premium Rates (all issue ages)	
1.6	Actuary's report and certifications	
1.7	Actuary's report and certifications	
1.8	Compliance officers certification	
2.	Product documentation provides the following information in simple language and easily readable format	
2.1	Name of the insurer	
2.2	Benefit amounts and method of payment of benefits	
2.3	Risks and contingent events covered	
2.4	Premium amount due, premium payment frequency and procedure for premium payment and the consequences if premiums are not paid;	
2.5	Term of the micro insurance policy and renewal process and conditions	
2.6	Claims process, documents required and expected claims settlement time after full documentation is received.	
2.7	Terms and conditions, including waiting period. Grace period, exclusions	
2.8	Complaints procedures and contact details of the RIRF	
3	Product Compliance with Regulations	
3.1	Product is compliant with the Schedule [reference to fair terms and conditions] and Schedule [reference to benefit limitations]	
3.2	Confirmation by policyholder for credit business under Regulation [reference]	
3.3	Policy documentation is available in local language	
4.	Miscellaneous	
4.1	Process for confirmation of policy inception	
4.2	Process for confirmation of receipt of premiums	
4.3	Process for notification of policy renewal	

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4.4	Claims process	
4.5	Distribution channel	

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MINISTER FOR FINANCE

The Government Printer, Mbabane

