THE KENYA INSURANCE MARKET

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1. INTRODUCTION

The history of the insurance market in Kenya is similar to that in most developing countries in that it was one of the products of colonisation and the development of a modern economic sector. Initially, insurance agents acting for foreign insurance companies, mostly British and Indian, appeared on the scene. Lloyds' of London was also represented by such agents, as Smith Mackenzie and Co. whose operations started as early as 1901, Sydne and C. Fichart who were established as land and estate agents in 1905, but in addition acted as sole agents in British East Africa and Uganda for the Norwich Union Fire Assurance Society. Subsequently, the East African Underwriters started business as chief agents in 1954 for a number of Indian Insurance companies such as United India Fire and General Insurance Co. Ltd and Oriental Fire and General Insurance Co.

As business grew, overseas companies established branches in Kenya and in 1930, history was made when the Pioneer Assurance Society Ltd was locally incorporated. The Jubilee Insurance Co. Ltd followed in 1937, while Pan Africa Insurance Co. joined the two in 1946. These three were the first insurance companies formed by local interest. Among the earlier mentioned branch offices to start operations in Kenya was the Provincial Insurance Co. Ltd in 1949, which was soon followed by other branch offices of mainly British and Indian insurance companies.

Kenya National Assurance Co. Ltd which in the 1970s and 1980s became a major player in the industry was incorporated on the 11th of December 1964 and started operations in February 1965. Initial shareholding of the company was mainly private but the Government took over the ownership in 1973, after paying off other shareholders who included insurance companies in the market.

Insurance brokers were not left out in these early developments. The first of such companies to be formed was Colin Hood Insurance Ltd in 1951. It has changed hands many times and is currently trading as Alexander Forbes Insurance Brokers Ltd. Another pioneer broking company was J. H. Minet & Co of United Kingdom which started operations through an agency (R. E. Bunson Insurance Ltd). The Company has also changed hands over the years and is currently trading as Aon Minet Insurance Brokers Ltd.

2. INSURANCE LEGISLATION

As in some African and other developing countries, there was no specific insurance legislation in Kenya until 1960, when the Insurance Ordinance of that year was promulgated. The law was intended to control the establishment, working and finances of insurance companies. Before the Ordinance, insurance companies had to comply only with the Companies Act. After independence in 1963 and with the assistance of the United Nations Conference on Trade and Development (UNCTAD), through the Special Programme on Insurance (SPI), Kenya like other emerging nations in Africa realised that there was need to introduce legislation on insurance to guide the growth of the industry and make it relevant to the national economy. Two UNCTAD Resolutions are of significance in this regard. The first, adopted in 1964, formalised the belief that "a sound national insurance and reinsurance market is an essential characteristic of economic growth". (Recommendation A.IV.23). The second resolution, Resolution 42 (III) adopted in 1972, invited developing countries to take measures geared to promoting the following objectives:

• To minimise to the extent feasible, the dependence of developing countries on international insurers and reinsurers.

• To obtain competitive reinsurance terms and conditions from the international market.

2.1 The Insurance Act

Following the above resolutions, SPI conducted studies on insurance legislation and supervision. Developments in insurance legislation in Kenya were influenced by these studies and UNCTAD in addition offered both material and financial support to the Government in drafting the current legislation, which is the Insurance Act Chapter 487 of the Laws of Kenya, enacted in 1986 and enforced on 1st January 1987. The Act provides for the following among others:

• Prior authorisation for all persons transacting insurance business in Kenya.

• Minimum capital requirements for insurance companies and brokers as well as the requirement for local participation which is one third (1/3) for insurance companies and sixty percent (60%) for brokers.

• Local incorporation.

• Approval of reinsurance arrangements by the Commissioner of Insurance.

• Provision for margins of solvency and admissibility of assets.

• Ceilings on amounts that can be invested in various categories of investment.

• Prescribed formats for financial statements including balance sheets.

• Submission of audited accounts by 1st April of the following year.

• On site inspections by staff of the office of the Commissioner of Insurance.

• Maximum ceilings for management expenses.

• Filing of rates, policy terms and conditions of insurance contracts with the office of the Commissioner of Insurance.

• Provision for intervention in the management and eventual winding up of an insurance company where necessary.

• Regulations and requirements relating to the process of transfers, long-term business portfolios, amalgamations and mergers of insurance companies.

While it is true that most countries on the continent enacted insurance legislations after independence, to make them more relevant to their economies, the political system followed by the new nations influenced legislations on the industry as it did in the other sectors of the economy. Broadly, countries opted to follow either the socialist system of national economy or market/mixed economies. Kenya followed the latter with the result that players in the country's insurance industry were either privately owned or state owned. Some of the major differences between the current Insurance Act and the earlier order were that all insurance and reinsurance companies were required to be locally incorporated with minimum subscribed capital (KShs 100 million for general business, KShs 50 million for long-term and KShs 500 million for reinsurance business). In addition, ownership of the companies was also to be either wholly or partially local.

2.2 Government Directives - 1978

In the development of the insurance market in Kenya, Government directives issued in 1978 by the Minister for Finance cannot be ignored. These directed that all insurance companies operating in the country had to seek local incorporation and that all imports into the country had to be insured locally, while reinsurance treaties arranged by local companies should be reviewed and approved by Kenya Reinsurance Corporation, as the office of the supervisory authority had not been established.

The birth of the insurance market in Kenya can rightfully be traced to 1978 and the Insurance Act reinforced and consolidated the gains made through the Government directives referred to above. As a result, the local industry, which was merely an extension of other markets, particularly that of the United Kingdom, became part of the national economy with the following characteristics:

i) Existence of insurance products,
ii) Geographical reference,
iii) Specific legislation(s) covering the operations of the industry,
iv) Local incorporation, whole or partial ownership by local interests,
v) Retention of part of the business written by insurers.

3. THE MARKET

3.1 Market players

3.1.1 Insurance Companies

The industry is highly fragmented with about forty registered insurance companies writing long and short-term business. In 2003, two leading companies accounted for 20% of the short-term premium income, eight had shares ranging between 3.7% and 6.3% adding to 37%, while the rest of the companies, controlled 43% of the market. There were twenty-one companies actively writing long-term business. The top five dominated the market with a share of 68% of the gross premium income. The life insurance sector is driven by two main lines of business; ordinary life and superanuation, which includes group life assurance and deposit administration.

3.1.2 Insurance Brokers, Agents and Other Service Providers

According to a list published by the Commissioner of Insurance, there are over two hundred registered insurance brokers currently operating in the market and one thousand (1000) registered insurance agents. The market also has about two hundred and fifty (250) registered surveyors, loss adjusters and investigators, in addition to five (5) qualified actuaries working in the industry.

3.2. Current status

By world standards, the Kenya insurance market is very small in terms of premium income. It is however one of the leading markets in Africa occupying the 7th position going by the 2003 statistics published in "Sigma". It ranks fourth in terms of insurance penetration after South Africa, Mauritius and Zimbabwe with a rate of 3.09%. Life and non-life corresponding rates were 0.81% and 2.28% respectively. In 2003 the market premium was KShs 27.9 billion (US$ 411 million), which grew to Kshs 32.60 billion (US $ 446.60 million) the following year, with a breakdown of KShs 9.97 billion and KShs 22.63 billion for long and short-term business, respectively. The performance of the industry for the year 2004 on the basis of information provided by the Association of Kenya Insurers was as follows:

Class	Primes brutes	Net Earned Premium	Incurred Claims	Expenses	Underwriting Profit
Short Term	22.63	14.56	8.78	4.70	1.08
Long Term	9.97	9.26	5.12	3.29	0.85
Total	32.60	23.82	13.90	7.99	1.93

Underwriting results - General Business

The underwriting profit amounted to KShs 1.074 billion compared to KShs 224.54 million the previous year. The major contributors in terms of premium were motor commercial at 24.3%, motor private 16.8% and personal accident at 15.9%. Motor insurance as can be noted accounts for 41% of the annual total general business premium. The worst performing classes were Aviation with a loss ratio of 132%, workmen's compensation 115% and motor private 70.8%. The industry claims ratio for general business was 59.9% in 2004 as compared to 62% the previous year.

Underwriting results – Long term insurance

The total long-term premium income and pensions contributions from all the three lines of life business (Ordinary life, Group life and Deposit Administration) was KShs 9.97 billion as compared to KShs 8.47 billion the previous year. Claims and policyholders benefits paid during the year added to KShs 5.12 billion as compared to KShs 4.64 billion in 2003. The distribution of gross claims and policy benefits paid for during 2004 were as follows:-

Class of Business	Gross Claims Paid (KShs)	Share
Ordinary Life	1,502,870,505	29.4%
Group Life	892,779,135	17.4%
Pensions	2,726,977,081	53.2%
Total	5,122,626,721	100%

3.3 Major Developments

3.3.1. Short-Term business

Due to the presence of many players in the market, competition for business has unfortunately focused on pricing. In a survey carried out for the period 2001 to 2003, the market produced positive underwriting results despite the pressure on rates. Over these three years, nineteen companies averaged a combined ratio of under 100%, signifying underwriting profit, while the remaining sixteen companies showed underwriting losses, with the worst performer recording a combined ratio of 135%. In spite of this, all but two companies were able to realise a profit for year 2003 because healthy investment returns boosted the poor underwriting performance. As a result of price wars and other management inadequacies, the industry experienced company failures, with five companies being placed under liquidation or statutory management. The latest casualty was United Insurance Co Ltd, which joined Kenya National Assurance Company Ltd, Access Assurance Co Ltd, Stallion and Lakestar, all of which had collapsed earlier. Most of them had large portfolios of motor insurance, which is a statutory class of business. To avoid policyholders and third party claimants being unable to recover claims under the policies, the Government has set up a Policyholders' Compensation Fund under the Insurance (Policyholders' Compensation Fund) Regulations 2004. The fund is expected to pay claims which are a subject of a policy of insurance, where the underwriter has gone into liquidation. However, the level of compensation is very low (KShs 100,000) and is only available to individual policyholders as opposed to corporate institutions. The Fund is to benefit from contributions by policyholders at 0.5% of gross premium payable on a policy and a similar contribution by insurers on premium written on both life and non-life classes during the year. If well structured with reinsurance protection, the fund should be able to pay all such losses or at least a substantial share of what would have been recoverable from insurers. The Fund should also extend to include corporate policyholders because of the contributions they are supposed to make to the fund. The introduction of the legislation is not however a totally new invention as it may have been copied from the United Kingdom. Following the collapse of the Vehicles and General in the 1970s, in the U.K, the Policyholders Protection Act 1975, was enacted to protect private policyholders and third parties in the case of compulsory insurance(s) against the risk of a U.K. authorised insurance company failing to meet its liabilities. The difference between the two funds is that in the case of the one in Kenya, contributions are expected both from policyholders and insurers, while in the U.K. it is the Government that funds the scheme. The issue of price competition has been of such concern to market players in the industry (short-term business) over the last few years that the Association of Kenya Insurers was forced to give guidance to its members.

Unfortunately, the Minister for Finance through a legal notice outlawed the intervention which is seen to contravene the provisions of the Restrictive Trade Practices, Monopolies and Price Control Act. The industry through the office of the Commissioner of Insurance still has hope of seeing some order prevailing on the issue of pricing, by way of enforcement of section 30 of the Insurance Act which requires, among others, that in applying for registration and licence as an insurer, applicants must submit statements of premium rates, terms and conditions to apply to their policies. Since licensing is an annual requirement, the office has the ability to prevail on market rates.

3.3.2 Life Assurance

Fortunately price wars have not been a feature of long-term business mainly because in arriving at a rate, for a given product, actuaries are still using UK mortality tables 1929 – 1952. The market has not developed its own mortality tables though there are arrangements already in place to compile a local one. Group life has however experienced some rate competition, while AIDS is of concern to group life and individual life underwriters. As a result, some life underwriters have taken the following measures to protect themselves.

i) Specific pricing for AIDS,
ii) Additional reserving,
iii) Exclusion clauses,
iv) Loading of premiums,
v) Removal of premium rate guarantees,
vi) Experience rating,
vii) Identification of high risk groups,
viii) Reduction of free cover limits.

Though logic may demand that free cover limits be reduced, some insurers are increasing the limits as an element of competition.

The Retirement Benefits Act (Act No. 3 of 1997) and Regulations. 2000

One of the major developments in the long-term business sector, has been the enactment of the Retirement Benefits Act and the Regulations, in as far as Deposit Compensation Schemes are concerned. The main areas covered by the legislation can broadly be grouped under the following headings:

i) Provision for a supervisory authority
ii) Registration of schemes
iii) Trusteeship
iv) Funding levels
v) Investments
vi) Service providers, such as administrators, managers, custodians, auditors and actuaries.

The Act has established the Retirements Benefits Authority (RBA) with the following mandate to:

a) Regulate and supervise the establishment and management of the retirements benefits schemes.

b) Protect the interest of members and sponsors of the retirement benefits scheme.

c) Promote the development of the retirement benefits industry.

d) Advise the Minister for Finance on national policies to be followed with regard to the retirement benefits industry.

e) Implement all government policies relating thereto.

The role of the RBA is in some ways similar to that of other regulators in the financial service sector such as the Capital Markets Authority, the Central Bank and the Insurance Commission. The RBA is however in a slightly weaker position because retirement benefits schemes are still voluntary in Kenya. The Act has formalised and given Trustees a greater responsibility in managing pension schemes as they will appoint all service providers including insurers. It has brought more transparency in the management of pension schemes because even for funds managed by insurance companies, Trustees have to appoint custodians and independent financial consultants.

3.3.3. Reinsurance

Due to the presence of a number of reinsurers operating in the market, Nairobi has become an important reinsurance centre in the East, Central and South African countries. These reinsurers are:

a. Kenya Reinsurance Corporation Ltd which is still 100% owned by the Government and receives legal cessions of 18% on each treaty arranged by the local insurers and reinsurers. However, this is to be phased out on 1st January 2007.

b. East Africa Reinsurance Company Ltd also 100 % owned by the private insurance companies. The reinsurer does not receive compulsory cessions.

c. ZEP-RE/PTA-RE, a joint venture company by countries in the COMESA region and some insurance companies. It receives compulsory cessions of 10% on all treaties arranged by insurance companies operating in member countries.

d. African Reinsurance Corporation formed by African Government members of the African Union and which also has some insurance and reinsurance companies operating in member countries as its shareholders. Shareholding was recently extended to institutions outside the continent. The Corporation receives a compulsory cession of 5% on all treaties arranged by insurance companies and reinsurers operating in member countries.

As can be seen above, a substantial share of treaties arranged by companies in the market are placed locally.

3.3.4 Insurance Training

The market has taken insurance training and education seriously, both at company and industry levels. According to available records, there are about four hundred Associates and Fellows of the Insurance Institute of London in the country. The industry has also developed its own diploma and to date, there are about ten people who have acquired the local diploma through examinations. The responsibility for insurance training and education has been assigned to the Insurance Training and Education Trust, which is funded through a Training Levy currently payable at the rate of 0.2% on non-life premium. Other than the courses leading to the award of the local diploma and tuition for the London examinations (Diploma and Advanced Diploma), the Trust through the College of Insurance, offers the following courses:

i) Certificate Course in Insurance (CCI),
ii) Certificate of Proficiency in Insurance (COP),
iii) Various Information Technology Courses,
iv) Management Courses for specific requirements of the industry.

The Insurance Training and Education Trust has two subsidiaries, the College of Insurance Management Board and the Kenya National Insurance Examinations Board which, will become an autonomous body when the expected legislation giving it legal backing is enacted.

3.3.5 Insurance Associations and the Yellow Card

An account of the Insurance industry in Kenya would not be complete without reference to various associations operating in the market. The oldest of these is the Insurance Institute of Kenya which was established in the late 1940s, as an affiliate of the Chartered Insurance Institute of London. Its main objective is the promotion of insurance training and education and professionalism. Other Associations formed later are:-

i) The Association of Kenya Insurers (AKI)
ii) The Association of Insurance Brokers of Kenya (AIBK)
iii) The Institute of Loss Adjusters, and Risk Surveyors (ILARS)
iv) The Association of Kenya Reinsurers (AKR).

The objective of the Associations is to provide a channel of communication between members and the authorities and promote members' interests and self-regulation.

The Yellow Card Scheme for the Common Market for Eastern and Southern Africa (COMESA) Countries.

The above scheme was introduced in 1987 to provide a guarantee for road accident victims, for damage or injury suffered as a result of road accidents, thereby facilitate movement of vehicles between member countries. Subscribing member States are Burundi, Democratic Republic of Congo, Djibouti, Eritrea, Ethiopia, Kenya, Malawi, Rwanda, Sudan, Tanzania, Uganda and Zimbabwe. In addition to meeting at least the minimum insurance requirements under third party motor traffic legislation in member states, the scheme provides cover of up to US$ 150 per person for drivers and passengers for injuries they may sustain while in transit. Over sixty thousand motorists now use the Yellow Card annually with a premium income of US$ 2.5 million (2004). The number of insurance companies participating in the scheme now stands at one hundred and sixty. In addition, a number of insurance agents have been designated at boarder posts, enabling motorists to easily access the cover. In terms of organisational structures, each country subscribing to the scheme has a national Bureau which coordinates the activities related to the Yellow Card and the main policy making body is the Council of Bureaux of the Yellow Card Scheme which is answerable to the COMESA Council of Ministers.

4. FUTURE DEVELOPMENTS

The expected developments in the market include the introduction of the following:-

i) Legislation establishing an Insurance Regulatory Authority
ii) The enactment of the Accident Compensation Bill 2003 into law.

The first expected legislation has been promised by the Government and it is most likely that an appropriate Bill will be introduced in Parliament in 2006. The Authority will be able to provide a more efficient and effective regulatory environment than under the current arrangement where the office of the Commissioner of Insurance is a department within the Ministry of Finance. Over the years, courts in the country have been awarding ever increasing amounts in damages to victims of motor accidents to the extent that such awards together with legal fees, are forcing insurers out of motor insurance business, particularly as regards the cover of public service vehicles. Court processes take a long time for the awards to be useful to the victims especially when they need them most. The same problem is being experienced by other accident underwriters and in particular, Workmen's Compensation insurers. To minimise the delays and make the amounts payable known and paid promptly, it has been necessary to legislate on a structured compensation system. The above Bill has been drafted on the basis of no-fault system. When it is passed it will not therefore be necessary or material to prove that death or injury which is subject of a claim, was occasioned by the negligence or other tort of any person.

5. CONCLUSION

The insurance market in Kenya as outlined above has had its share of problems like others, but the structures in place such as the Supervisory Authority and the Associations, are adequately in control and able to guide the industry to a more stable and prosperous future. Much depends on the growth of the economy which is showing signs of improvement. The economy has been under-performing for a number of years with GDP growth rates of 1% or less. For the first time in many years, this has improved to 4% in 2004 and it is expected that the current year will show even better growth in GDP, estimated at 5%.

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