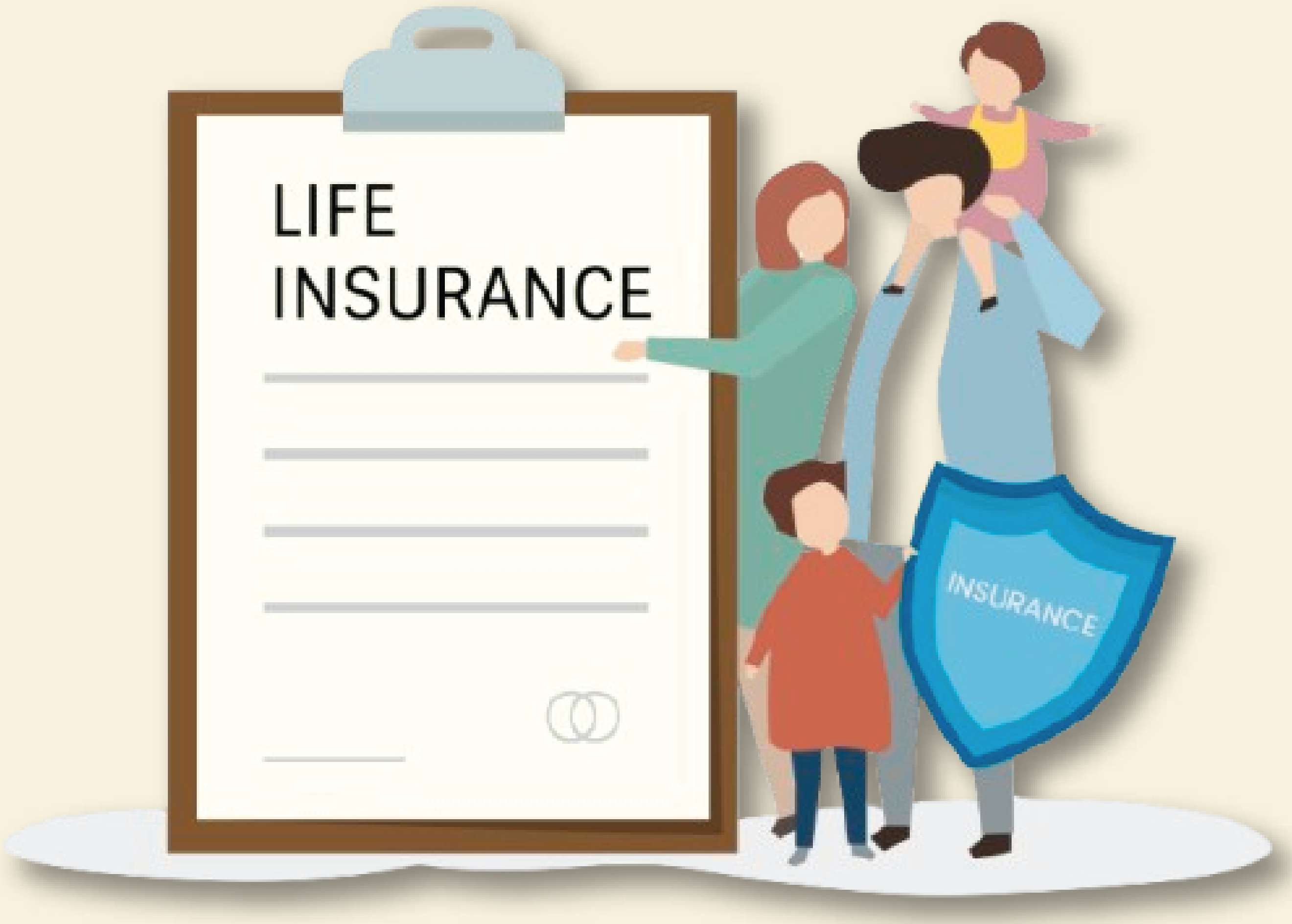
Hirko and Associates (HALO) Legal Update

A New Era for Insurance Regulation in Ethiopia



A NEW ERA FOR INSURANCE REGULATION IN ETHIOPIA

Ethiopia's insurance sector stands at a critical point of transformation. The draft Insurance Proclamation introduces a comprehensive overhaul of the existing legal and regulatory framework, reflecting both global best practices and the evolving needs of the domestic market. From institutional restructuring to market liberalization and enhanced governance, the reform signals a decisive shift toward a more modern, inclusive, and resilient insurance ecosystem.

1. THE REGULAR

Under Proclamation No. 746/2012, the National Bank of Ethiopia (NBE) served as the sole regulatory authority for the insurance sector, exercising licensing, supervisory, and enforcement powers within its broader financial sector mandate. The draft Proclamation establishes an autonomous Ethiopian Insurance Regulatory Authority (Articles 3–6), governed by a Board of Directors comprising seven members, including three independent members, and led by a Commissioner appointed by the Prime Minister for a six-year term. This long-awaited institutional reform marks the realization of a sustained policy direction to establish a dedicated insurance regulator. The creation of the Authority represents the implementation of that promise, with a clear mandate to protect policyholders, promote a fair and stable insurance market, and support financial inclusion, while operating with institutional and operational independence.

2. OPENING THE SECTOR TO FOREIGN PARTICIPATION

Proclamation No. 746/2012 imposed a comprehensive prohibition on foreign participation in the insurance sector, which was only marginally relaxed by Proclamation No. 1163/2019 for Ethiopian-origin foreign nationals without repatriation rights. The draft Proclamation (Article 44) introduces a liberalized framework allowing foreign insurers to establish subsidiaries, acquire shares, and participate as shareholders, subject to defined thresholds. Strategic investors may hold up to 40%, foreign juridical persons up to 10%, and foreign individuals up to 7%, with an aggregate cap of 49% per insurer. Repatriation of dividends, sale proceeds, and liquidation proceeds is permitted under Article 45(4), subject to

3. SHAREHOLDING STRUCTURE AND LIMITS

Under the previous regime, individual shareholding was capped at 5%, with additional restrictions on influential shareholders holding 2% or more. The draft Proclamation (Article 48) revises these limits, allowing natural persons to hold up to 7% and juridical persons up to 10%, with aggregate limits to be determined by directive. The concept of "influential shareholder" is replaced by "significant owner," defined as a person holding 4% or more or exercising control (Article 2(88)), with continued restrictions on cross-ownership in multiple insurers.

4. CORPORATE GOVERNANCE AND CONTROL FUNCTIONS

The earlier framework required regulatory approval for directors and senior executives and set general eligibility criteria but lacked detailed governance structures. The draft introduces mandatory independent directors (Article 58(2)), defined with strict independence criteria (Article 2(42)), and requires insurers to establish key control functions, including risk management, compliance, actuarial, and internal audit (Article 60). These functions must operate with sufficient authority, independence, and resources. The Authority is further empowered to impose administrative penalties directly (Article 179), enhancing regulatory enforcement.

5. CAPITAL ADEQUACY – TRANSITION TO RISK-BASED CAPITAL

Previously, minimum capital requirements were fixed by directive, and solvency was assessed using a standardized formula. The draft Proclamation introduces a Risk-Based Capital (RBC) framework (Article 67), requiring insurers to maintain capital aligned with their specific risk exposures, including insurance, market, credit, and operational risks. Insurers may apply internal models subject to approval or use a standard formula. The Authority may also require higher capital levels for individual insurers based on the nature and complexity of their operations (Article 65(2)).

6. RESOLUTION AND LIQUIDATION FRAMEWORK

The former regime relied on general receivership provisions and borrowed liquidation rules from banking legislation, without a dedicated insurance resolution framework. The draft establishes a comprehensive regime (Articles 127–159), including mandatory recovery plans (Article 127), resolution planning for systemically important insurers (Article 128), and a structured Official Administration process (Articles 129–141). Additional mechanisms include moratorium provisions (Article 134), bridge insurers (Article 136(6)), detailed liquidation procedures with a defined priority of claims (Article 155), clawback provisions (Article 149(10)), and mandatory debt restructuring tools (Article 136(8)).

7. INTRODUCTION OF (ISLAMIC INSURANCE SCHEME) TAKAFUL AND INCLUSIVE INSURANCE

The prior legal framework did not formally recognize Takaful or inclusive insurance. The draft introduces dedicated licensing categories (Article 35) and establishes a regulatory framework for Takaful operations (Articles 160–163), including Sharia governance, fund segregation, and surplus distribution mechanisms. It also provides for inclusive insurance products aimed at underserved populations, with flexibility for composite insurers to offer such services (Article 36(2)).

8. ENFORCEMENT MECHANISMS

Previously, enforcement relied primarily on criminal sanctions, requiring judicial proceedings even for minor violations. The draft introduces administrative penalties (Article 179), enabling the Authority to impose fines through directives. In determining penalties, factors such as the severity of the violation, recurrence, intent, impact, financial gain, and ability to pay are considered, allowing for a more efficient and proportionate enforcement approach.

CONCLUSION

The draft Insurance Proclamation represents a landmark shift in Ethiopia's regulatory landscape. By introducing institutional independence, opening the market to foreign participation, strengthening governance, and adopting risk-based supervision, the reform lays the foundation for a more competitive, transparent, and resilient insurance sector. Its successful implementation will be pivotal in enhancing market confidence, attracting investment, and expanding access to insurance services across the country.