Tanzania Access to Insurance Diagnostic

Document 7: The role of policy, regulation and supervision in building an inclusive insurance market

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About the Tanzania Access to Insurance Diagnostic series

This is *Document 7* in a series of 8 documents that together comprise the findings of the Tanzanian Access to Insurance Diagnostic. The series consists of one headline findings summary and seven input documents, each focusing on a specific thematic area, that build up the evidence base to the headline findings:

1. **Headline findings.** This document summarises the main findings of the diagnostic study across the other documents, then concludes on market potential and opportunities, the challenges to be overcome and the strategic imperatives to unlock such potential.
2. **Context.** Document 2 outlines the macroeconomic, socio-economic, political economy and financial sector context within which the Tanzanian insurance market develops.
3. **Insurance uptake.** Document 3 estimates the current penetration of the microinsurance market as percentage of adults in Tanzania and how insurance uptake has evolved in recent years.
4. **Insurance industry trends.** Document 4 analyses recent trends in the insurance industry in terms of premium volumes, players and performance, asking what the catalyst for the next wave of growth required towards an inclusive insurance market will be.
5. **Product and distribution landscape.** Document 5 considers the current suite of products in the Tanzanian microinsurance landscape. In addition, it unpacks trends in insurance distribution.
6. **Health insurance dynamics.** Document 6 takes a closer look at the health insurance dynamics in Tanzania, given the unique features of the health insurance landscape.
7. **Regulatory framework.** Document 7 considers the role of policy, regulation and supervision in building an inclusive insurance market by unpacking the key features of the insurance regulatory framework, as well as ancillary areas of regulation.
8. **Understanding client needs.** Document 8 draws on focus group and demand-side survey research to better understand the economic realities, risk experience, coping strategies and knowledge and perceptions of insurance of the Tanzanian adult population. On this basis, it conducts a segmentation exercise whereby the target market is grouped into distinct segments and the profile of each is explored.

The series was designed so that readers can focus on the Headline Findings document, drawing on specific input documents for the evidence base and as per their area of interest.

The full series is available at: www.fsdt.or.tz and www.finmark.org.za

The series has been submitted for review by the global Access to Insurance Initiative (www.access-to-insurance.org) and, upon acceptance and subject to further refinements, will also be published under the banner of the Access to Insurance Initiative.

List of Abbreviations

AML/CFT	Anti-money laundering/combatting the financing of terrorism
CISNA	Committee on Insurance, Securities and Non-banking Financial Authorities
FATF	Financial Action Task Force
FSAP	Financial Sector Assessment Programme
IAIS	International Association of Insurance Supervisors
ICPs	Insurance Core Principles
ICT	Information and communication technology
TIRA	Tanzania Insurance Regulatory Authority
IAIS-MIN JWGMI	IAIS-Microinsurance Network Joint Working Group on Microinsurance
MFI	Microfinance Institution
MI	Microinsurance
SADC	Southern African Development Community
SMS	Short messaging service

REGULATORY FRAMEWORK: DOCUMENT 7 SYNOPSIS

The Tanzanian insurance regulatory framework comprises the Insurance Act 2009 and its Regulations, as well as a Code of Conduct and Ethics. As regulator, the Tanzanian Insurance Regulatory Authority (TIRA) actively engages with the topic of financial inclusion. The policy landscape more broadly facilitates this approach, with both the Ministry of Finance and Economic Affairs and the Bank of Tanzania committed to financial inclusion.

Key findings

The regulatory framework has facilitated recent industry growth. TIRA is positioning the regulatory framework for the next wave of growth in three main ways:

- *Discretion applied as inclusion-friendly tool: t*he Act grants broad discretionary powers to the Commissioner, for example to allow general insurers to underwrite funeral insurance under the miscellaneous category. However, there is some risk that discretion can create uncertainty if rules do not apply consistently across the board, or can lead to an unlevel playing field if specific players are granted a dispensation that others are not.
- *Prudential framework to be scaled up:* TIRA recognises the need to move towards risk-based capital and generally to strengthen prudential requirements so as to ensure the continued sound operation of all insurers and move towards more comprehensive compliance with international standards.
- *Intermediation space to be opened up:* TIRA acknowledges the need to reconsider the intermediation regulatory space in order to facilitate market development. It has drafted microinsurance regulations that propose to lift the traditional broker and agent-only intermediation restriction in favour of dedicated microinsurance agents.

Conclusion

As TIRA embarks on its regulatory reforms, five imperatives arise for positioning the regulatory framework as facilitator of inclusive insurance market development:

1. *A general review of prudential requirements instead of a separate licence*. Market conditions suggest that there is no need for a dedicated microinsurance licence.
2. *Consider regulatory treatment of community-based health insurance schemes*. Such schemes fulfil an important role. As they grow beyond provision of prepaid services, the need for regulatory oversight will increase, calling for consideration of the functions fulfilled by such schemes, how the model works and whether it amounts to insurance.
3. *Make distribution options as broad as possible*. The regime should be designed to be as flexible as possible, broadening the space beyond just microinsurance agents. Furthermore, there is a particular imperative for ensuring appropriate market conduct.
4. *Develop product definition of microinsurance*. A conceptual definition of microinsurance is a good starting point, but to delineate microinsurance from other products, a commonly accepted working definition should be developed in line with market realities, based on qualitative and potentially quantitative product parameters.
5. *Consider more explicitly accommodating low-risk as part of a risk-based anti-money laundering and combatting the financing of terrorism (AML/CFT) regime.* There is a strong rationale, supported by emerging international guidance, for a risk-based approach to AML/CFT. Should microinsurance be classified as low risk, simplified customer due diligence can be applied to it.

1. Regulatory context and environment

The core objective of this diagnostic is to inform Tanzanian stakeholders in their future efforts to develop an inclusive insurance market[1]. The other input documents seek to answer the key question of whether there is scope for microinsurance to play a role in managing the risks faced by the low-income market and, in light of the country context and market situation, what the key opportunities and the challenges to be overcome are to do so.

This document focuses on a second key question, namely: in what way does the current regulatory framework shape market developments and how can the regulatory framework facilitate the development of the microinsurance market? This recognises the core role of the insurance regulator, TIRA, in the stakeholder process. The rest of this document gives an overview of the regulatory[2] framework of relevance to insurance in Tanzania as basis for a number of conclusions and recommendations. Before doing so, we consider the institutional landscape and policy context that form the backdrop to the analysis.

1.1. Institutional landscape

There are three key regulatory role players with a bearing on the insurance market:

1. *Ministry of Finance and Economic Affairs*. The Ministry of Finance and Economic Affairs is the financial sector policymaker. It sets the policy direction for all financial sector regulation. While the President signs off on legislation, the Minister is responsible for the formulation, development and implementation of the national policy on insurance in the United Republic (S.4 of the Insurance Act), in close consultation and cooperation with the Minister of Finance in Zanzibar. Furthermore, the Minister has the power to make regulations (S.167 of the Insurance Act) without any stated need for consultation with the Commissioner.

2. *Bank of Tanzania.* The Bank of Tanzania is the Central Bank. In addition to its monetary policy objective as per the Bank of Tanzania Act, 1995, it fulfils a coordinating or secretariat role on behalf of the Ministry of Finance for much of financial sector policy, and there is a deputy governor dedicated to financial sector policies. As will be discussed below, the Bank of Tanzania is also the custodian of Tanzania's global financial inclusion commitment.

3. *Tanzania Insurance Regulatory Authority (TIRA)*. TIRA is the supervisory authority for the insurance sector in Tanzania. As such, it has authority over general and long-term insurance, but not pension funds, which is the ambit of the Social Security Regulatory Authority. It was set up as an autonomous agency under the Insurance Act 2009 (with its predecessor having been the Insurance Supervisory Department within the Ministry of Finance and Economic Affairs) and is governed by a National Insurance Board. Section 5 of the Insurance Act 2009 bestows the responsibility for coordinating policy and other

[1] As noted in *Document 1*, we use the term "microinsurance" to refer broadly to all products, channels and models aimed at expanding the reach of the insurance sector beyond its traditional focus to the mass market, many of whom live in rural areas and earn their livelihood in the informal sector. Hence we use the terms "microinsurance", "access to insurance" and "inclusive insurance market" interchangeably.

[2] Note, the word "regulatory" is used in its broad meaning throughout this report, encompassing policy, regulation and supervision. Generic references to "regulation" should be interpreted as referring to the full body of legislation and subordinate legislation (which will include regulations as specific instrument).

matters relating to insurance on TIRA, under the general supervision of the Minister. Its functions (S.6) are to promote and maintain an efficient, fair, safe and stable insurance market for the benefit and protection of policy holders. These functions have also been adopted as official mission statement of TIRA (TIRA Annual Report, 2010).

The Commissioner is tasked to issue circulars and specify a code of conduct for members of the insurance industry and to supervise compliance with all aspects of insurance regulation. The Commissioner has the power to levy fees (S.158) and may enforce administrative penalties (S.160-162). In addition, the Commissioner or any officer authorised by the commissioner has the power under the National Prosecution Services Act, 2007, to prosecute offences committed under the Insurance Act.

1.2. Policy, regulatory and supervisory context

Young but relatively well capacitated regulator. Only having been established in 2009, TIRA is still a very new regulatory authority. It has a staff complement of 47, out of which 14 staff members are technical staff dedicated to insurance supervision[3]. A recent review of the Tanzanian supervisory framework against the International Association of Insurance Supervisors (IAIS) Insurance Core Principles (ICPs) as part of a SADC-wide study showed that TIRA is competent in discharging its duties of supervising the industry[4]: it follows a structured on and offsite supervision system, has an onsite supervision manual and compiles a comprehensive annual report that outlines sector-wide trends based on offside reporting. In its short lifespan, it has focused on the implementation of the Insurance Act, while proactively pursuing topics such as bancassurance, Takaful insurance and, now, microinsurance.

TIRA staff appreciate the nature of the trade-offs that exist between ensuring a stable and healthy insurance sector on the one hand, and encouraging innovations that are likely to impact positively on financial inclusion. Following on from the diagnostic process, TIRA is looking to take the lead in a stakeholder process to develop and implement a roadmap for microinsurance market development.

However, there is always room for capacity development. So far, there has been no need to distinguish between insurers based on nature, scale and complexity in the reporting system – something that could be considered as part of a proportionate/inclusion-friendly supervisory approach. The same ICP review recommended that more reports on risk management should be generated and that other qualitative reports including on corporate governance merit attention (Swanepoel, 2012)[5].

TIRA committed to financial inclusion. Though its mission statement and core functions do not explicitly include market development, TIRA is committed to supporting inclusive insurance market development. This is evidenced by the fact that it has established a Directorate of Market Development. Its commitment to financial inclusion is furthermore

[3] A recent study conducted for SADC-CISNA (Committee of Insurance and Non-bank Regulatory Authorities) indicated that, on average, insurance regulatory authorities in the Southern African Development Community (SADC) have 21 technical staff members focused on insurance, with the number ranging from 6 (in the case of Zambia) to 70 (in the case of South Africa).
[4] It found that the authority is very active with regard to staff training, international liaison, research activities, capacity building, consumer education and establishment of a presence in the rural areas. The authority has a specific focus on the enhancement of its information communication technology to enhance efficiency between the market players and the authority. Furthermore, it is concentrating on full implementation of a risk based supervisory framework.
[5] Swanepoel, A., 2012. Tanzania country report: Draft, July 2012. Input report into SADC-CISNA Harmonisation Project.

witnessed in its support for the current study, its participation in regional and global forums on microinsurance (most notably the upcoming International Microinsurance Conference to be hosted in Dar es Salaam), as well the fact that it has already developed draft microinsurance regulations. TIRA is furthermore a member of the IAIS and hence party to all the IAIS developments regarding regulation and supervision supporting inclusive insurance markets.

Broader financial inclusion objective as backdrop. TIRA's commitment to inclusive insurance stems in part from its recognition of the socio-economic realities in the country and in part from current industry trends as set out in *Document 4*. Ultimately, it also takes its cue from the broader government commitment to financial inclusion. Though there is no single financial inclusion policy in Tanzania at present, the *Ministry of Finance and Economic Affairs* has formally endorsed the present microinsurance diagnostic study and, as ministry responsible for financial sector coordination, explicitly emphasises financial inclusion. This is evidenced in several policies and initiatives, for example (Ministry of Finance and Economic Affairs consultation, 2012):

- **Financial Sector Reform Program**: following a World Bank mission in 2003, a financial sector reform and support programme, monitored by the Bank of Tanzania, was set up. It covers financial reforms, regulation and policies across capital markets, the banking sector, pension funds and the insurance sector, as well as microfinance and rural finance and the national payment system. Under the programme, the *Ministry of Finance and Economic Affairs* formed a national committee and several technical committees (on which the regulator and financial institutions for the particular sector serve alongside the Ministry of Finance). This reform programme gave rise to the Insurance Act of 2009 and the resultant establishment of TIRA, the establishment of the Social Security Regulatory Authority and other recent reforms.
- The **National Microfinance Policy,** which is now being revised after more than a decade in force.
- A **Financial Education Framework** being developed under the coordination of the Bank of Tanzania
- Plans to develop a **Rural Financial Services Strategy**, once again coordinated by the Bank of Tanzania
- According to the consultation with the *Ministry of Finance and Economic Affairs*, the most significant current development with regard to financial inclusion is an on-going study on **financial protection and inclusion** to inform the formation of a National Financial Inclusion Policy. No specific timeline has been set for such a policy.

Financial inclusion slots into broader development plan. The backdrop for the *Ministry of Finance and Economic Affairs'* emphasis on financial sector development, in turn, is the government's Vision 2025 and Tanzania's National Strategy for Growth and Poverty Reduction[6], called MKUKUTA. MKUKUTA I was implemented from 2005/6-2009/10, after which MKUKUTA II was launched to run from 2010/11 to 2014/15. It stipulates certain macroeconomic and development targets for the country but does not explicitly mention financial inclusion as a key policy objective. Nevertheless, it for example makes reference to the provision of financial services on a micro level to farmers.

[6] http://www.tz.undp.org/docs/MKUKUTA.pdf

Central financial inclusion role for Bank of Tanzania. The practical implementation of the Financial Sector Reform Programme and the various policies under it is coordinated and implemented by the Bank of Tanzania. The Bank of Tanzania is a member of the global Alliance for Financial Inclusion (AFI) and is one of the 17 original regulatory institutions worldwide to have made a national commitment to financial inclusion as part of the Maya Declaration at the 2011 Global Policy Forum. This entailed setting a goal of financial access for up to 50% of the population by 2015. To reach this goal, the Bank of Tanzania has committed to[7]:

- "Implement interoperability solutions for efficiency, affordable and increased access by 2013;
- Spearhead development of a comprehensive consumer protection framework and education framework in collaboration with other stakeholders;
- Promote development of Agency Banking; and,
- Have in place effective data integrity for measuring and monitoring progress towards Financial Inclusion in line with AFI core indicators."

As indicated above, there are also several other financial sector support initiatives relevant to financial inclusion rolled out under the coordination of the Bank of Tanzania. Furthermore, the Bank of Tanzania is engaging with the topic of strengthening the regulatory framework for microfinance institutions (MFIs) and savings and credit cooperatives (SACCOs) – a topic of relevance to insurance distribution (Bank of Tanzania consultation, 2012).

External drivers of reform. It is clear from initial discussions with the Ministry and the Bank of Tanzania that the emphasis on financial inclusion stems in part from policy recognition of local realities and in part from an external need for financial sector reform, driven by the results of the 2003 Financial Sector Assessment Programme (FSAP), that advocates for financial inclusion while at the same time pushing for more sophisticated regulation in line with international standards[8]. The commitment under the Maya Declaration is another external driver of reforms aimed at financial inclusion. This implies the need for a balancing act between external drivers and local realities in devising the optimal regulatory response.

Box 1. Aligning inclusive insurance initiatives with broader regulatory reform processes

A recent study conducted for SADC-CISNA[9] and FinMark Trust across twelve countries in the SADC region confirmed the findings of an earlier set of case studies conducted for the Global Partnership on Financial Inclusion[10] that, in practice, financial sector regulatory reform is often driven by (i) the need to comply with increasingly complex international standards and (ii) the recommendations of financial sector assessment programmes (FSAPs). An FSAP frequently leads to donor funding for international consultants to redraft financial regulatory frameworks, including insurance legislation. The practical outcome of such a situation is often more complex regulation copied and pasted from more developed jurisdictions, which may inadvertently increase access barriers without taking explicit account of the particular development context in the country.

This phenomenon underlines the importance of supervisors using the scope for proportionality contained in certain aspects of the IAIS Insurance Core Principles (with application guidance contained

[7] http://www.afi-global.org/gpf/maya-declaration
[8] The 2003 FSAP report can be downloaded from http://www1.worldbank.org/finance/assets/images/Tanzania_FSA.pdf.
[9] The Southern African Development Community, Committee on Insurance, Securities and Non-banking Financial Authorities.
[10] See the cross-country summary document titled "Global Standard-Setting Bodies and Financial Inclusion. Insights and lessons from five countries: Brazil, Kenya, Mexico, the Philippines and South Africa". Available at: http://www.gpfi.org/sites/default/files/documents/Global%20Standard%20Setting%20Bodies%20and%20FI.pdf. The underlying individual case studies are available at: http://www.gpfi.org/knowledge-bank/case-studies

in the IAIS *Application Paper on Regulation and Supervision Supporting Inclusive Insurance Markets*[11]), in order to tailor the framework to inclusive insurance market development goals where appropriate. Any microinsurance regulatory reforms should be regarded in the context of the broader regulatory reform process, with an explicit recognition of the need to take into account the local context and objectives.

A relevant example in this regard is the insurance regulatory reform process followed in Ghana: the incorporation of microinsurance was engineered into the general reform process from the start. The National Insurance Commission made sure that the international consultant used was on board and used industry consultative forums to debate specific topics to be included in the regulatory reforms.

1.3. Structure of the analysis

This document considers those aspects of each area of regulation most relevant to the development of an inclusive insurance market in order to conclude on regulatory imperatives for facilitative insurance inclusion. The analysis will be structured as follows:

- Section 2 will analyse the core aspects of the regulatory framework and their relevance to microinsurance.
- This will lay the foundation for concluding, in Section 2.2, on the regulatory drivers of market development as well as the corresponding regulatory imperatives or recommendations.

2. Regulatory framework: main characteristics

Various areas of regulation relevant for microinsurance development. The regulatory framework represents the rules of the game that frame inclusive insurance market development in Tanzania. Though there are a number of pieces of legislation and subordinate legislation that may be of relevance, the analysis focuses on the regulatory fields most likely to have implications for microinsurance in Tanzania, namely:

Category	Relevant regulation

Insurance-specific regulation	• Insurance Act no. 10 of 2009 and its subordinate legislation, notably:
	  • Insurance Regulations 2009
	  • Code of Conduct and Ethics for Tanzania Insurance Industry (inserted as a Schedule to the Insurance Regulations 2009)

Pipeline regulatory developments and proposals	• Draft Microinsurance Regulations 2012 • TIRA study report and recommendations: viability of Takaful (Islamic) products and associated regulatory framework in Tanzania • Bank of Tanzania Final Report: Developing a Framework for Bancassurance in Tanzania, 2010

[11] Available at: http://www.iaisweb.org/Application-papers-763

Category	Relevant regulation
Other regulation of relevance to insurance:	• Banking and Financial Institutions Act 2006, as well as the National Microfinance Policy 2000 • Anti-Money Laundering Act 2006, as well as the Tanzania Financial Intelligence Unite Guideline No. 4:Anti-Money Laundering and Counter-Terrorist Financing Guidelines to Insurers issued under the Anti-Money Laundering Act • Cooperative Societies Act 2003 and Societies Ordinance Cap 337 RE 2002 • National ICT Policy 2003 • National Payment System Vision and Strategic Framework 2005

Table 1: Tanzania regulatory scheme of relevance to insurance

Source: Consultations and desktop research

In what way do the various regulatory fields shape the evolution of the microinsurance market in Tanzania? Below we consider the current regulatory framework, including pipeline provisions/proposals, as well as relevant aspects of the ancillary regulatory framework.

2.1. Insurance regulatory framework

There are five key areas of insurance regulation that together comprise the insurance regulatory framework, namely:

- **Institutional and corporate governance regulation** refers to those statutory requirements that determine the legal forms or persons that may underwrite insurance, as well as the corporate governance requirements applicable to these legal forms. The content of institutional and corporate governance regulation is generally not specific to the insurance sector but generic across sectors.
- **Product-relevant regulation.** Regulatory systems are often structured around definitions of specific products or product categories. Product regulation regulates the nature and structure of insurance products[12].
- **Prudential regulation** refers to all regulation that seeks to ensure that insurers are able to meet their contractual obligations to their clients. This is done by, for example, setting minimum entry requirements and requiring compliance with a set of prudential regulations governing the operations of the insurer, including solvency margins, as well as the need for actuarial review.
- **Intermediation regulation** refers to the regulation of the distribution, or intermediation, of insurance products. Regulation of this kind includes requirements as to who can intermediate insurance, fit and proper requirements for intermediaries, regulation of the sales process, as well as of the level and structure of commissions paid.
- **Consumer protection regulation** comprises all regulatory requirements that relate to how insurers and intermediaries treat customers, under what conditions policies may be cancelled, whether grace periods should be allowed and what recourse mechanisms should be available to customers. Such rules are aimed at protecting clients in situations of information asymmetry and low financial literacy. Like product regulation, consumer

[12] Product regulation can be distinguished from prudential and market conduct regulation in that it does not relate to the insurer or the sales/intermediation process, but to the product. Provisions relating to product regulation are usually contained within either prudential, institutional or market conduct legislation, but we highlight the product-relevant aspects separately.

protection regulation is usually contained in one of the other areas, notably prudential or intermediation regulation.

Below, we consider the main features and implications for inclusive insurance market development of each area in brief. We use the abbreviation "MI" to refer to microinsurance.

2.1.1. Institutional and corporate governance framework

Table 2 summarises the main provisions relevant to institutional form and corporate governance and their implications for microinsurance market development:

Area	Current provisions	Implications for MI market development[13]
Institutional form	• S.16(1): insurers limited to incorporated bodies under Companies Act *or other law.* Yet: ○ 1st schedule to Regulations refers only to companies ○ Part C, 2nd schedule, sets out Code of Conduct for insurance companies and does not note any other institutional form	• Cooperatives excluded from MI provision in practice, but not a barrier in practice – cooperatives sector capacity issues imply scope for MI intermediation, not underwriting
Corporate governance	• No single insurance corporate governance framework, though various sections of Act relevant to governance (e.g. S.24-27 directors' requirements; S.42 audit committee, S.49 investment committee). S.50 requires board to develop and annually review an underwriting policy dealing with size and risks to be underwritten, types of products, reinsurance, currency risks, etc. • Size and composition of the board or its powers and responsibilities are not specified in the Act or Regulations, no requirement for Board Charter • A recent review of TIRA's supervisory framework against the IAIS ICPs indicated that, whilst parts of the legislation and on-site visits address elements of corporate governance, a more formal process detailing requirements, guidance and reporting is needed for insurers and brokers.	• No particular MI implications if no separate prudential tier for MI; strengthening of general framework will benefit MI by implication

Table 2: Main features of institutional and corporate governance regulatory framework

Source: Insurance Act 2009 and Regulations; Swanepoel (2012)

No institutional barriers per se. Internationally, one of the key considerations for microinsurance is institutional form. In many countries, insurance provision is limited by law to companies, yet there may be mutual, cooperative or other community-based forms that could be in an equally sound position to underwrite microinsurance for the benefit of their members. Hence the *IAIS Application Paper on Regulation and Supervision Supporting Inclusive Insurance Markets* (henceforth referred to as "the Application Paper"), drawing on an earlier Issues Paper published by the IAIS on the subject,[14] highlights the need to be agnostic about institutional form – as long as all those providing insurance meet the same

[13] Note: all references to "MI" refer to microinsurance.

[14] IAIS and Microinsurance Network, 2010. *Issues Paper on the Regulation and Supervision of Mutuals, Cooperatives and other Community-based organisations in increasing access to Insurance Markets*. Available at: http://www.iaisweb.org/Issues-papers-and-other-reports-48

functional requirements with regard to the provision of insurance. This would include prudential and a sufficient corporate governance framework.

Though, in practice, insurance provision in Tanzania is indeed limited to companies registered under the Companies Act, institutional form does not pose a barrier to microinsurance. A review of the cooperatives sector (more on that in Section 2.2 and *Document 5*) suggests that cooperatives lack the capacity to act as insurance underwriters. The insurance market review in *Document 4* furthermore indicates there to be limited if any informal insurance provision among non-corporate entities at present. Rather, the biggest opportunity where the cooperative sector is concerned lies in the intermediation of microinsurance.

Strengthening of corporate governance framework to benefit microinsurance indirectly. As is apparent from Table 2, microinsurance will benefit from a general strengthening of the corporate governance framework applicable to insurers. Normally, this consideration is more relevant, should a separate microinsurance licence be created that cuts across institutional form. In such cases, it would be paramount that all entities, regardless of institutional form, meet the same governance requirements. Though such a dedicated microinsurance licence is not proposed for Tanzania under the draft microinsurance regulations (a position that we support – see Section 3.2), microinsurance will still benefit indirectly from the general strengthening of the market implied by a stronger corporate governance regime.

2.1.2. Product-relevant regulation

Table 3 summarises the main product-relevant provisions of the Tanzanian insurance regulatory framework and their implications for microinsurance market development:

Area	Current provisions	Implications for MI market development
Definitions	• Two categories: **general vs. life**, with life defined as long-term. The general category is quite broad to encompass accidental life-related events as well as health and the miscellaneous category is broadly defined to allow for any other type of product.	• The way that the classes are defined is unlikely to have an adverse effect on mass market expansion
	• **Funeral** policies defined in definitions section as a policy paying out a monetary amount and/or non-monetary benefits primarily towards burial and funeral expenses. No separate specification of funeral policies in the Schedule, but they form part of Long-term Class I (life and annuity). In practice, TIRA has allowed general insurers to offer funeral policies under the Miscellaneous category in the general schedule - despite the definition in the definitions section specifically referring to a pay-out upon death.	• Most insurers in Tanzania are general insurers, thus the flexibility in allowing them to also offer funeral benefits facilitates MI market development. However, application on a case by case basis may imply regulatory uncertainty. Clear definitions and guidance preferred to ensure level playing field.
	• Proposed **MI definition** (draft MI regulations): any product approved as such by the Authority, life *or* general (not composite). MI conceptually defined as insurance accessed by low-income pop. Low-income household means those working in the informal sector, so explicitly excludes formal employees, but	• Given low formal sector employment (see *Document 2*), this definition of MI is probably broad enough. Yet we caution against explicitly excluding certain segments, as e.g. low-end formal sector workers will also be part of the microinsurance target market, broadly viewed

Area	Current provisions	Implications for MI market development
	imposes no income cut-off.	
Bundling	• S.51(2) of the Insurance Act allows the provision of subsidiary cover (rider) of another class (long-term or general) as long as principal object of policy relates to one class. Subsections 3 and 4 clarify that long-term insurers may provide only accident or sickness general riders and general insurers may provide any life riders. • S.114: life insurers may, upon written notice to Commissioner, issue total or partial permanent disability or accident or dread disease death cover as life policies, subject to certain provisions set out in the sub-sections • Draft MI regulations Sections 11 and 12 reinforce a clear demarcation between life and non-life MI policies – no bundled policies permitted	• The fact that Act is quite flexible regarding bundling of product features facilitates a flexible MI offering designed to cover various target market needs. • However, strict MI policy demarcation under draft MI regulations can undermine general flexibility
Product approval	• Licence applications include a list of classes of policies to be provided. Although insurers are licensed to transact specific classes of business, a specific product-by-product approval is still required before an insurance product is launched. This is typically the case when an insurer wishes to introduce a new product to its product range. • The draft MI regulations (S.3) call for specific prior product approval by TIRA for MI products, not file and use. However, S.8(3) suggests that approval can be sought for type of MI, with individual policies then to be rolled out without specific approval. S.16(1) again calls for prior authorisation of all MI products.	• Some uncertainty as to exact requirements for MI product pre-approval.
Other product standards	• **Claims settlement**. S.131 of the Act requires insurers to pay claims within 45 days of the date of receipt of the executed discharge. S.22 of the draft MI regulations holds that every insurer must settle an MI claim within 3 days after the day on which the required claims documentation was received. • **Compulsory products**: Motor Vehicle Insurance Ordinance (Cap 167)) makes provision for compulsory 3rd party liability insurance. Contribution to the workers' compensation fund is mandatory for all employers under the Workers Compensation Act 2008. The Act makes no specific provision for compulsory credit life or consumer choice in that regard. Hence TIRA view is that it conditional credit life is not allowed. • **Insurable interest**: S. 86 defines insurable interest and limits it to immediate/nuclear family members.	• **Claims settlement**: tardy claims settlement is one of the common reasons for consumer distrust of insurance. Hence draft MI regulations' move to impose claim processing turnaround limit supports MI development. • **Compulsory products**: in practice, lenders do require credit insurance as a condition to the loan and this is a large MI growth area. From consultations with TIRA this is not restricted *per se*, as long as consumers are allowed to shop around. • **Insurable interest**: in the case of funeral insurance, it may be necessary to cover extended family members and the criteria for insurable interest would not be closeness of relation, but rather whether the death of that person places an expense liability on the policy holder.

Table 3. Main features of product-relevant regulatory framework

Source: Insurance Act 2009 and Regulations; Draft microinsurance regulations, 2012

Scope for bundling of product features despite demarcation – but caution against unintended consequences of microinsurance provisions. The funeral and bundling flexibility provided for in the regulatory framework means that most insurers can provide any product likely to be appropriate to the microinsurance target market. However, the lack of clear or consistent rules may also create regulatory grey areas down the line and undermine a level playing field. Industry consultations expressed some concern about concessions being made for some players, but not all; thus it is best to clarify the rules or provide guidance to clarify the conditions for bundling across all players. The most concerning factor, however, does not relate to the current regime, but to the proposals for microinsurance product demarcation entrenched in the draft microinsurance regulations. Should these provisions be finalised, it will mean that the bundling flexibility in the overarching regime is not applicable to microinsurance and may undermine the incentive for insurers to write products under the microinsurance definition. Paragraph 3.12 of the IAIS Application Paper (2012) explains why bundling may be desirable:

> "Sometimes an inability to bundle life and non-life products in the same insurer is cited as a barrier to access because of increased costs. Innovative approaches may include bundling together various life and non-life products, including health benefits. Depending on the nature of the market, this may represent a way to enhance access to insurance services."

Paragraph 3.15 goes on to clarify that:

> "For requirements to reflect the nature, scale and complexity of the risks, less onerous obligations may be imposed on composite insurance where this is permitted only with respect to limited products than those that would be imposed on a composite insurer with no limitation."

Generally flexible product approval regime, but greater clarity needed for microinsurance. The draft microinsurance regulations require specific pre-approval for all microinsurance policies. This means that no quantitative or specific qualitative product parameters are set for microinsurance, as each product will be approved on a case by case basis. A product approval approach to the definition of microinsurance creates the flexibility for regulatory discretion, but also potentially opens the door to uncertainty in the market. It would be important to clarify the criteria for qualification as a microinsurance product. The conceptual definition proposed for microinsurance in the draft regulations provides a good starting point. However, a clearer sense would be required of how it translates into product features. This will be one of the key considerations for the microinsurance stakeholder process following on from the current diagnostic. *Document 1* discusses international learning in this regard.

Various product standard provisions strengthen microinsurance regime; further consideration of details needed. The product standard-related provisions set out in Table 3 are all in some way relevant for inclusive insurance market development.

- *Claims settlement*: The focus group findings as set out in *Documents 5 and 8* confirm the importance of speedy and reliable claims settlement in building consumer trust in insurance. While we agree with the principle of placing a limit on the time to process a claim, the three days suggested in the draft microinsurance regulations may be overly tight and consideration should be given to whether insurers' systems (currently often still paper-based) will be able to manage such a limit. Table 4 considers examples of international experience in this regard:

Country	Claims processing requirement
Peru[15]	Claims must be paid within 10 days
Ghana (proposed)[16]	Claim to be accepted or rejected within 7 days of being submitted and, if accepted, paid within 10 days of the receipt of the claim
Mexico[17]	Claims should be paid within five working days
South Africa (proposed)[18]	All valid microinsurance claims should be paid within a period of 48 hours after the insurer received all the requisite documentation, with the qualification that claims may be paid in instalments if this was provided for in the contract
Philippines[19]	Insurance Memorandum Circular 1-2010 requires that claims for a microinsurance contract must be settled within 10 working days of receipt of complete documents by the provider. In addition, Circular 5-2011 requires microinsurance providers to report their claims settlement times (relative to the 10 days benchmark) to the commission as one of a set of standard performance indicators for microinsurance.

Table 4: Comparative international examples: claims turnaround limits

Source: various

- *Structuring of premiums*. Another aspect that sets microinsurance apart from traditional insurance is that some in the target market may find it difficult to save up to pay a premium once a year. Individuals with low and/or irregular incomes may have a little bit of spare cash every month or week to pay towards a premium, if it is collected from them in a convenient and cheap way. Others, for example farmers, may prefer to pay larger premiums once or twice a year in line with their income stream. The focus group research confirms these findings, as the following quotes illustrate:

> "Even every day when you add airtime. This is simple, rather than leaving your workplace and finding the providers". (Group 13: non-insured men, urban Kilimanjaro - Moshi)
>
> "I would like to pay for it monthly, but the rate should be affordable". (Group 12: compulsory insured men, urban Kilimanjaro - Moshi)
>
> "From what I have heard it's better to pay yearly because for the whole year it is possible even to find some money to pay for the coming year. But paying monthly you might find yourself having nothing in that month and as a result you will cancel your insurance unexpectedly." (Group 8: non-insured women, semi-urban Kisarawe)

In Tanzania, there are no specific regulatory requirements regarding premium structuring. The industry norm is for premiums to be paid upfront on an annual basis. Sometimes, annual payments may be made in monthly instalments, depending on the conditions of the policy. It would be important for the microinsurance regulatory framework to take account of structuring of premiums so as to allow optimal flexibility from the customer perspective.

[15] Ciappe, 2011.
[16] Draft Insurance Code, 2011.
[17] http://www.svs.cl/sitio/publicaciones/doc/Seminario_%20Assal/Presentacion_Manuel_Aguilera.pps#815,2,Microseguros: experiencia regulatoria en México
[18] Microinsurance Policy Statement, 2011.
[19] http://www.insurance.gov.ph/htm/..%5C_@dmin%5Cupload%5Creports%5CCL%2005%20-%202011.pdf

- *Insurable interest requirement may be restrictive for some mass market policies*. Table 3 indicates that the insurable interest provision in Section 86 of the Act may be a problem for funeral insurance. However, TIRA indicated in consultation that funeral policies have a schedule whereby the insured lives can be indicated up to a maximum number. The names listed are not limited to the nuclear family. Hence S.86 does not pose a barrier in practice. Nevertheless, the fact that only a few family members can be covered on a policy was highlighted by respondents in the focus group research as a limitation (see *Document 5*). The realities of large families and financial responsibility for persons outside of the immediate family need to be allowed for in the microinsurance regulatory framework.

- *Exclusions and price discrimination*. The Act or draft microinsurance regulations do not make any reference to allowable exclusions or restrictions in this regard. Under S.115 of the Insurance Act, an insurer is not allowed to discriminate in terms of premiums rates charged or bonuses granted between life policies of the same kind. Thus no price discrimination is allowed between people with similar life expectancies. Nothing emerged from the consultations regarding industry practices with regard to exclusions or price discrimination to the detriment of microinsurance market development. Nevertheless, exclusions can be a major area where consumer trust breaks down and simplicity is undermined. Therefore, it may be necessary for the microinsurance regulatory framework to limit exclusions in principle to ensure fair treatment of consumers across the microinsurance framework[20].

2.1.3. Prudential regulation

Table 5 summarises the main prudential provisions and their implications for microinsurance market development:

Area	Current provisions	Implications for MI market development
Licensing & renewal	**Registration** (S.16 Act; Regulations S.3 & Schedules 1, 3): • Application form requirements: name and address of the company as well as of the manager, principal officer, auditor and actuary. It also requires the amount of paid-up share capital to be stated, as well as the financial year-end. • Required documentation: policy classes; own business and reinsurance treaty limits; shareholding details in excess of 5%; experience and qualifications of managers; proposed policies w.r.t. underwriting, risk selection, premium rating, investment, gross or net premium income limitation, treaty and facultative reinsurance placement and control of management expenses; Memorandum and Articles of Association, Brokers and Agency and underwriting binder agreements; agent's identity card, policy forms and standard endorsement wordings, last audited accounts, treaty reinsurance ceded outwards and underwritten inwards; solvency statement; admissible assets statement. Long-term insurers must submit additional documentation including an actuary's abstract. • Application fee: TZS 10m • Regulations (S.4): insurance licence expires automatically on the 31st of	• Nothing in the licensing regime flagged as of concern to MI market development.

[20] At the same time, it must be noted that exclusions help to keep premiums low. A blanket prohibition on exclusions will not be desirable or viable in the microinsurance market.

Area	Current provisions	Implications for MI market development
	December of the year of registration. A renewal application should be submitted before the 30th of November each year according to a prescribed form and accompanied by a prescribed fee of TZS 2.5 million.	
	Licence demarcation: • S.17: May transact either long-term or general insurance, not both. According to S.19 of the regulations, existing composite insurers were granted three years to continue operating as composite. The Commissioner may, upon application, extend the transition period by a further two years.	• See product discussion: product bundling provisions override any concerns that could arise from splitting up of composite insurers
	Local limits: • Section 16(1) of the Act requires the manager of an insurer to be resident in Tanzania, for one third of the board to be local as well as for a one third local controlling interest.	• TIRA stands firmly by local capacity-building principle. It has not been raised as a concern by market players.
Financial management	**Valuation of assets & liabilities**: • S.22 of the Regulations prescribes calculation of assets and liabilities of general insurers and S.23 with that of long-term insurers. S.24 applies to the calculation of assets and liabilities of composite insurers (to be phased out).	• No MI-specific implications – generally sound framework with limited concerns
	Auditing requirements: • Annual independent audit by auditor resident in Tanzania and appointed with the prior written approval of the Commissioner. S.41: audited balance sheet, income statement, cash flow statement and statement of changes in equity to be published in any newspaper as the Commissioner may direct. S.42: directors to establish an Audit Committee, with its functions specified in Regulations, S.40.	
	Actuarial requirements: • S.89 of the Act: all long-term insurers to undergo an actuarial valuation of the insurer and each life insurance fund every two years, or a shorter period if prescribed by the Commissioner, as well as prior to distributing profits. Commissioner may grant extension. Actuary is to be approved by the Commissioner as part of the licence application. • S.154.1: general insurers that account for more than 15% written in Tanzania in any year to have its claims reserves examined by an actuary in the subsequent year. • S.154.2: actuarial examination of reinsurers general and life business every two years. Actuary's report must be submitted with the insurer's annual returns to the Commissioner.	
Returns filing	**Insurers' returns**: S.40 – unaudited quarterly plus audited annual returns. • Detailed requirements for annual returns (S.28 of Regulations; list of exhibits in Schedule): • Company background info, details of share capital and shareholders, board of directors, company officers and advisors, as well as number of people employed, relationship between company and parent company, number of policies per class and maximum net retention for that class.	

<table>
<tr><th>Area</th><th>Current provisions</th><th>Implications for MI market development</th></tr>
<tr><td></td><td>Main financial statements in the format prescribed (income statement and balance sheet details, including capital account, cash flow statement, solvency margin test, admitted assets calculation, investment details, receivables and payables)
Operating details (premiums, claims payments, reinsurance details, commissions by class of insurance, management and investment expenses, operating transactions, and other income and expenditure)
Detailed requirements for quarterly returns (S.29 of Regulations; all according to prescribed template in Schedule):
Balance sheet and income statement information;
Details for capital account, solvency margin test, admitted assets, receivables from brokers, agents and policyholders, as well as from insurers and reinsurers;
Payables outstanding; facultative business ceded, etc.
Brokers' returns:
Audited annual (S.73) and unaudited quarterly returns (S.78). S.30 of the Insurance Regulations: form of such filings to be specified in a Circular Letter.</td><td></td></tr>
<tr><td>Investment requirements</td><td>S.44 of Act: Minister may include investment restrictions in regulation;
S44(3): 100% local investment unless permission by Commissioner for foreign placement.
S.45: an insurer may only invest in derivatives with the written consent of the Authority.
S.47: every insurer to keep a register of assets.
S.49: Board to establish Investment Committee to develop an investment policy and renew it on an annual basis, taking due account of credit risk, interest rate risk, exchange rate risk, liquidity risk and the safe keeping of investment assets.
S.36 of Regulations: investments as specified in 5th Schedule, which limits investments in certain classes (e.g. property, equity) as % of overall assets.</td><td></td></tr>
<tr><td>Capital, solvency & reserving</td><td>Paid-up share capital:
S.19 of the Act: capital requirements to be set in Regulations. Regulations Part V:
Paid up share capital is the same for life and general insurers, phased up in TZS 250m increments from TZS 1bn for end of 2010, to TZS 1.5bn for end of 2012, thereafter lessor of 10% or inflation increase per year
Companies only providing non-life and non-marine business may hold only half.
Reinsurers had to have TZS 5bn in 2010, with the 10% or inflation ratio applied thereafter.
The amount for existing composite insurers was set at TZS 1.3bn in 2010, phasing up to TZS 2bn by the end of 2012, with the 10% or inflation ratio applying after that.
At least 50% of paid-up share capital to be kept in security deposit with the Bank of Tanzania (Regulations S.20)</td><td rowspan="2">No MI-specific implications as long as no separate MI licence envisaged.</td></tr>
<tr><td></td><td>Solvency:
S.20 of the Act: may only operate as insurer if sufficient solvency margin as prescribed by Minister. Details in S.21-24 of Regulations, with a percentage-based margin of assets over liabilities prescribed for general, long-term and reinsurers respectively.</td></tr>
</table>

Area	Current provisions	Implications for MI market development
	Reserving: • S. 27 of the Insurance Regulations require all insurers to maintain reserves for each class of insurance business to cover unexpired risks, outstanding claims, as well as contingency reserves to cover fluctuations in securities and variation in statistical estimates. Additional reserving requirements apply to non-life and long-term business respectively.	
Reinsurance	Mandatory reinsurance cessions (Part VII of Act): • S.79: insurers must place 5% of their reinsurance cessions with Africa-Re, 10% with Zep-Re (COMESA-owned). • S. 84: mandatory cession to Tan-Re as set out in the TAN-Re (Establishment) Order of 2001. According to the Tan-Re consultation, this percentage is set at 20% up to 2012, then phasing down to 15% in 2013 and 10% in 2014, after which compulsory cession to Tan-Re will cease. Under S.31 of the Act, the Commissioner may set limits to reinsurance ceding, but no such limits are currently prescribed.	

Table 5: Main features of prudential regulatory framework

Source: Insurance Act 2009 and Regulations

Sound prudential framework with limited implications for MI. The draft microinsurance regulations do not propose any separate microinsurance licence with tailored prudential requirements.

Box 2. Whether to create a dedicated microinsurance regulatory framework or not? Considerations from international learning[21]

Developing a dedicated regulatory dispensation for microinsurance, notably a separate microinsurance licence with tailored prudential requirements, can be a time and resource intensive process and may not always be necessary. For example, in Colombia the government decided not to create a dedicated regulatory framework as the current framework was regarded as conducive to microinsurance market development. That this has been an appropriate decision is supported by data collected by the industry association, Fasecolda[22]. Microinsurance uptake increased from 1.5 million in 2008 to nearly 8 million in July 2011.

Whether a special dispensation is needed or not will depend on the analysis of the current regulatory burden and incentives for market expansion stemming from the diagnostic. It may well be that the analysis indicates that only small tweaks are required to the regulatory framework to clarify uncertainties and remove disproportionate barriers. Thus the principle of proportionality can be applied without necessarily developing a dedicated microinsurance regime.

Another option would be to follow a "test and learn" approach as entrenched in the G20 Principles for Innovative Financial Inclusion[23]. This approach entails that, before embarking on regulatory reform,

[21] Extract from draft Access to Insurance Initiative Toolkit IV: Country-level microinsurance development process: operationalizing the action plan.
[22] As quoted in Volume II of the Microinsurance Compendium, Chapter I.
[23] Principle 7 on Knowledge states: "Utilize improved data to make evidence-based policy, measure progress, and consider an incremental "test and learn" approach by both regulators and service providers. … A number of countries have [adopted] a "test and learn" approach that has enabled them to examine new services and untried business models under carefully controlled conditions. As a result, they are better able to strike an appropriate policy-regulatory balance between safety and soundness on one hand, and growth and development on the other". Source:

regulators go through a period of monitoring market developments[24] and only implement regulation if the need for it becomes apparent – and then in a way that responds to market trends. One example is Zambia, where the supervisor initially just issued a one-page policy statement to signal that it would accommodate innovative microinsurance approaches by the market. A few years later, it is now developing a regulatory framework that takes account of market developments since then.

We agree with the position taken in the draft microinsurance regulations not to opt for a separate prudential regime for microinsurance at present. At this stage, the market situation does not suggest the need to encourage additional entry through a separate prudential tier. Thus the "normal" prudential regime will continue to apply to all insurers, whether they provide microinsurance or not.

As is apparent from Table 5, the current prudential framework is generally adequate to ensure a sound insurance market, while not posing unnecessarily high barriers to entry or compliance cost. Nevertheless, there are a number of aspects in need of modernisation. As the discussion in Section 3.2 will show, we argue for a general strengthening of the prudential regime. This will already enable the Tanzanian insurance market to achieve the next level of growth as argued for in *Document 4*.

Below, we consider the implications of the current prudential regime in more detail:

Comprehensive returns filing allow tracking of market trends. Detailed filings enable detailed analysis of market trends. The insurance regulatory framework pertaining to returns entail detailed forms, schedules and procedures and TIRA applies the CARAMELS[25] risk-based supervision system to both offsite and on-site supervision. The extent of information submitted is reflected in the comprehensive TIRA annual report.

Box 3 considers international learning on the importance of data to supervision in the microinsurance sphere:

Box 3. Data as supervisory tool[26]

Data is core to supervisors' ability to design and implement a sound, effective and proportionate regulatory and supervisory approach. Reporting requirements and effective monitoring and analysis of the data received are important supervisory tools to ensure consumer value and protection.

An inclusive regulatory and supervisory approach will not impose onerous reporting requirements on insurers, but will request data that is collected in any case as part of sound insurance practices. The Microinsurance Network's Performance Indicators Working Group has done considerable work to define key performance indicators (KPIs) for microinsurance (see www.microfact.org). The KPIs

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http://www.gpfi.org/sites/default/files/documents/G20%20Principles%20for%20Innovative%20Financial%20Inclusion%20-%20AFI%20brochure.pdf

[24] For example by asking insurers to track and report on their inclusive insurance market activities based on a common understanding of what inclusive insurance would entail

[25] The CARAMELS model is a simple risk assessment framework applied by a number of supervisory agencies in developing countries. It is an acronym for: Capital adequacy, Asset quality, Reinsurance, Actuarial and Adequacy of claim provisions, Management, Earnings, Liquidity and Self-dealing. An assessment is made under each category, usually based partly on financial ratios and partly on observations from on-site inspections. According to actuarial consultants Lawrie Savage & Associates, the assessment framework should be formalized, consistent and as objective as possible. While the CARAMELS approach has been found to yield a reasonable basis for supervisory prioritization, it was adopted by supervisors well before the emergence of modern risk management theory (http://www.lsacanada.com/risk-assessment-software/).

[26] Extract from forthcoming Access to Insurance Initiative Toolkit IV: Country-level microinsurance development process: operationalizing the action plan.

identified for microinsurance are:

1) Incurred expense ratio $_n$ = Incurred Expenses $_n$ / Earned Premium $_n$
2) Incurred claims ratio $_n$ = Incurred claims $_n$ / Earned premium $_n$
3) Net income ratio $_n$ = Net income $_n$ / Earned premium $_n$
4) Renewal ratio $_n$ = Number of renewals $_n$ / Number of potential renewals $_n$
5) Coverage ratio $_n$ = Number of active insured $_n$ / target population $_n$
6) Growth ratio$_n$ = (Number of insured $_n$ – Number of insured $_{n-1}$) / Number of insured $_{n-1}$
7) Promptness of claims settlements = Analytical breakdown of service times taken to process and pay a set of claims
8) Claims rejection ratio = Number of claims rejected / number of claims in the sample
9) Solvency ratio = Admitted Assets $_n$ / Liabilities $_n$
10) Liquidity ratio$_n$ = Available cash or cash equivalents $_n$ / short-term payables $_n$

While all of these KPIs are relevant for microinsurance businesses, not all can feasibly be tracked by supervisors. The IAIS Application Paper includes a discussion on the proportionate application of ICP 9 on Supervisory Review and Reporting, highlighting that supervisors should track, at a minimum, the information that would be contained in an income statement and balance sheet (or other information equivalent in outcome) that:

"i. identifies the effects of reinsurance on income statement and balance sheet items so as to facilitate the analysis of the insurance business on a "gross" and "net" of reinsurance basis;
ii. relates to the insurance business specifically when the enterprise is involved in both insurance and non-insurance activities;
iii. separately identifies expenditure associated with claims payments from those of operating and other expenses;
iv. are provided not less frequently than annually or on request. Standard 9.4 refers to annual statements."

Tracking of such information would allow calculation of a number of key performance indicators such as the incurred expense ratio, incurred claims ratio, net income ratio, solvency ratio and liquidity ratio.

Additional KPIs that could be considered include the policy renewal ratio (or, inversely: lapse ratio), promptness of claims settlement ratio and growth ratio (measuring the growth in the number of policies). In deciding which of these KPIs to track, supervisors should assess what additional data would be necessary and realistic to collect in their contexts and given their supervisory objectives.

Microinsurance vs. total insurance market monitoring?

In most instances there will not yet be a separate regulatory definition of microinsurance, hence there will be no separate reporting on microinsurance policies. Where this is the case, it will still be important for the supervisor to track key performance indicators in the industry at large and especially in certain policy classes that are most relevant to microinsurance in the particular country.

One of the KPIs set forth by the Microinsurance Network is the *coverage ratio.* It refers to the number of microinsurance clients relative to target market. It will generally not be possible to gauge the number of *microinsurance* policyholders in a country through supervisory reporting requirements. Where there is no separate microinsurance class of policies in the country, it will not be reasonable (or indeed possible) to expect insurers to track the income levels of their clients in order to report on the number of low-income policyholders. Even in instances where insurers do report separately on microinsurance as a class of policies, it will not always be possible to accurately measure the number of *policyholders*, as there may be some duplication where one person has more than one policy. In such instances, the *number of policies* can be tracked as a proxy.

Investment requirements in line with standard practice. Investment restrictions are common practice, internationally and aim to align the nature of assets (including risk and maturity) to that of liabilities. So, for example, general insurers need to invest more in liquid assets whereas long-term insurers can have a larger exposure to longer-term assets given the long-term nature of their policyholder liabilities. The provisions for Tanzania are in line with this principle. The fact that insurers are limited to local investments is only a problem if the right assets are not available locally to match liabilities. Some of the consultations pointed to concerns about the underdevelopment of the local capital market and volatility in the money market. However, the ability to apply to TIRA for an exemption removes this as an absolute barrier.

Formula-based approach to reserving and solvency requirements. The principle behind reserving requirements in Tanzania is to use a basic prescribed method of valuing assets and liabilities, as well as a percentage-based approach for the solvency requirements:

- **Paid-up share capital**: as long as reserving and solvency requirements are in place, paid-up share capital has little actual effect on soundness. Rather, it is a signal that a player is "large and serious enough to play" by the rules of the game, that is: to be licensed. Currently, paid-up share capital is set in absolute terms in Tanzania, as an amount needed to enter the market. TIRA has indicated its intention to increase paid-up share capital three-fold over the next few years. This may be in reaction to industry trends: as discussed in *Document 4*, there has been a spate of entry, to the point where there are doubts whether the number of small insurers in the market is sustainable. It would therefore make sense for TIRA to increase entry requirements.
- **Valuation of assets and liabilities and solvency requirements**: The way that the reserving and solvency requirements are set out is broadly in line with accepted practices in the "pre-Solvency II"[27] era and no specific concerns arise. Generally speaking, the valuation of liabilities is directly linked to solvency requirements: the more conservative the valuation of liabilities, the less stringent solvency requirements need to be. On the long-term side, the methodology for valuing liabilities in Tanzania is left largely to the actuary and full reporting of actuarial approaches, assumptions and risk factors is not required. While this has not led to concerns in practice, it is only partially observant of the standards under Insurance Core Principle 14 (Swanepoel, 2012). Furthermore, it means that the level of conservatism of the actuary comes into play in determining solvency (given that the solvency requirement is a straight percentage of the value of liabilities).

Actuarial requirements do not pose barrier. Where the actuarial requirements are concerned, we once again do not find the current framework onerous; neither did any cost concerns in this regard arise from the consultations. TIRA confirmed that industry was consulted in the move from three-yearly to two-yearly actuarial valuations on the life side as well as the introduction of actuarial valuations for large general insurers, and that no concerns arose.

[27] Solvency II refers to the system for risk-based capital requirements being implemented in the European Union, allowed in Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009. It has since become a standard for solvency requirements, internationally, that many developed and developing countries are working towards. The directive is available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:335:0001:0155:en:PDF.

Introduction of risk-based capital being considered. Currently, internal models are not allowed and capital adequacy requirements are not based directly on the different risks that an insurer may encounter. Instead, capital adequacy/solvency is linked to size only: in the case of long term insurance it is based on a straight percentage of liabilities and premiums (for contingency reserve) and, in the case of general insurance, on a percentage of premiums or net profits. As parts of the long-term insurance market that are currently still underdeveloped, such as investment business and guarantees, develop, it will become more and more important to take account of the risks on an insurer's balance sheet in solvency requirements. In line with international trends, TIRA is considering a move towards risk-based capital. According to the TIRA consultations, the end-goal is a situation in line with Solvency II, where each insurer has an in-house actuary that can assess solvency on a continuous basis.

Proportionality considerations under risk-based capital framework could promote microinsurance. The implication of proportionality when moving towards a risk-based regime could be that the framework starts to classify certain product classes as more or less risky. Under such a scenario, it could then become feasible to define microinsurance as a low-risk class (by addressing the source of risk, such as term and benefit levels, in the product definition through the imposition of limits). Should microinsurance be carved out as a low-risk class that attracts lower solvency requirements, the implication would be that it can render a higher return on capital than other classes requiring higher capital. Hence, theoretically, it could increase the attractiveness of microinsurance – on the assumption that there is a large enough market for microinsurance. All of the above is however still a hypothetical scenario and perhaps unnecessarily complex at present.

Compulsory reinsurance cessions may undermine product innovation. The last relevant prudential consideration is reinsurance. The industry situation with regard to reinsurance cessions and what it signals with regard to underwriting capacity is discussed in *Document 4*. The compulsory cessions, though understandable from a classic "infant industry" argument whereby subsidies or quotas are used to establish a local industry, undermines competition in the reinsurance market. Competition in the reinsurance market, in turn, drives product innovation, especially in countries such as Tanzania where in-house underwriting skills among insurers are limited.

Takaful[28] considerations

Takaful framework currently under consideration. There are no current provisions for Takaful in the Tanzanian insurance regulatory framework. First considerations towards a Takaful regime are set out in a May 2012 TIRA *Study Report and Recommendations* on the topic. The report finds that in a country where a large proportion of the population is Islam, there is likely to be significant and growing demand for Takaful insurance. To ensure a level playing field and given the likely sensitivities where financial products structured around religious beliefs are concerned, it is essential that the right regulatory framework be put in place for Takaful insurance before it is allowed to be practiced in the market.

[28] "Takaful is the Islamic counterpart of conventional insurance, and exists in both life (or "family") and general forms. It is based on concepts of mutual solidarity, and a typical Takaful undertaking will consist of a two-tier structure that is a hybrid of a mutual and a commercial form of company. This in itself poses significant issues for regulation and supervision. In addition, all the functions of a Takaful undertaking should conform fully to Islamic law (Shari'a), and this has implications in other areas of regulation and supervision." Source: Islamic Financial Services Board and IAIS, 2006. Issues in Regulation and Supervision of Takaful (Islamic Insurance). Available at: http://www.ifsb.org/docs/takaful_2006.pdf

The proposal is to develop a separate Takaful Act and Regulations in 2013, with formal introduction of Takaful operations expected by 2014. The report rightly indicates the need for specific regulatory capacity-building in this regard. Furthermore, it recognises that regulatory reform would need to be broader than just the insurance framework, as it would require recognition of Shari'a boards in the Companies Ordinance. The tax laws would furthermore need to allow for payment of zakah[29] prior to tax payments.

Introduction of Takaful unlikely to impact microinsurance market at scale. It is our assessment that Takaful insurance is unlikely to have significant implications specifically for mass market expansion, but is rather likely to be positioned as corporate or niche insurance products aimed at the higher/traditional end of the insurance market. The consultations suggest that people are not necessarily opting out of the insurance market in the absence of a Takaful offering, but rather that a Takaful option would be regarded as a competitive advantage for insurers competing for business. It is therefore an additive measure (i.e. relevant within the existing market), rather than a transformational measure aimed at drastically extending the reach of the market. This is confirmed by the 2009 FinScope findings, where only 0.1% of all adults without insurance quoted the fact that insurance is against their religion as reason for not having it. However, isolated cases in the focus group research indicate that there may also be a need for Takaful in the microinsurance market. The following insight emerged from in a group of non-insured men in Dar es Salaam, where the respondent in question indicated that he would only use insurance if it was compulsory:

> *Respondent*: From the Islamic perspective insurance is prohibited.
>
> *Moderator*: Why?
>
> *Respondent*: It has a sense of accumulation of the properties for something which is planned by God. This creates the idea of interest rates which is also prohibited from an Islamic perspective.

It is likely that any Takaful framework adopted would be equally applicable to microinsurance without need for tailoring. TIRA should however give further consideration to the microinsurance topic in its deliberations on the topic.

2.1.4. Intermediation regulation

Table 6 summarises the main features of the insurance intermediation regulatory framework in Tanzania:

Area	Current provisions	Implications for MI market development
Who may intermediate?	• S.61 of the Act allows for brokers and agents (corporate or individual). It furthermore allows agent employees and broker's agents to operate without explicit registration. • Direct distribution, bancassurance or other aggregator distribution not explicitly allowed for – though also not prevented in practice	• Clarity needed on scope for distribution by entities other than traditional brokers and agents
	Broker registration requirements:	• Regulation facilitates strong

[29] Zakah, or Zakat, is the Islamic term for an obligatory contribution that every Muslim with savings above a certain threshold must pay to certain classes of people, including the poor. One of the five pillars of Islam, it is regarded as neither a tax nor charity (http://www.islamicaid.com/learning-zone/zakat-zakah/).

Area	Current provisions	Implications for MI market development
	• S.65: brokers to apply for registration or renewal in the prescribed form, providing any additional documentation that the Commissioner may require. • S.67: corporate insurance brokers must be a limited company registered under the Companies Act, with its principal office in Tanzania, must be a member of Tanzania Association of Insurance Brokers, with its director, controller, manager or principle officer in charge of daily management all resident in Tanzania and with sufficient knowledge and experience in insurance. Furthermore, at least 1/3 of controlling interest to be held by Tanzanians. • Individual brokers must have skills in the insurance industry, must be resident in and have a permanent established office in Tanzania (S.67.c) • S.6 of the Regulations: broker registration applications according to Form 3 in the First Schedule, which covers the broker's name, address, name and address of the manager, principal officer and auditors, as well as of the bank where the trust accounts will be held. Applicant must state whether the broker is a sole proprietorship, partnership or limited liability company and must state amount of deposits held by a trustee bank as per the requirements of the Regulations. • Application to be accompanied by various documents, including details of agent and insurer agreements, and a range of documents to attest to the soundness of the broker and the competence of its key personal and directors.[30]. • TZS 2.5m should be paid as registration fee. • After registration, the Commissioner issues a certificate of registration (Regulations S.7) that expires at the end of each year. An application for renewal to be submitted each year. • S.61.3: a broker's employee may accept insurance business without him/herself being registered, provided that his/her compensation is not related to the volume of business handled. • S.63.1: broker (and insurer) is liable for actions of their agents and employees of an agent, premiums paid to agent or employee, deemed paid to broker (or insurer). **Prudential requirements**: • S.69: corporate brokers are required to hold capital requirements, to be determined in regulation. • S.70: a broker is liable for all acts and omissions of his agents and staff and must insure himself against that liability. • Broker is responsible to the insurer for all premiums due (S.72.1) and must remit premiums within the time specified in regulations (S.72.2). • Must keep all insurance moneys received from or for clients in a separate trust	broker industry playing active role in MI-relevant innovation

[30] Detailed documentation requirements include: all agents with whom the broker has an agency agreement, all insurers with whom it holds binders or claim settlement powers, a list of all agents it employs, a statement of any links with insurers, declarations from all controllers, directors, partner shareholders with more than 10% shareholders as well as managers whether they have been insolvent or convicted by a court of an offence involving dishonesty, the experience qualification and age of key personnel, directors and partners, a list of branch offices and the names, experience and qualifications of officers in charge of each, articles of incorporation, management agreements or service contracts, insurance agent's identity card, last audited accounts, professional indemnity and fidelity guarantee insurance policies, agency, binder and claim settlement agreements.

<table>
<tr><th>Area</th><th>Current provisions</th><th>Implications for MI market development</th></tr>
<tr><td></td><td>account (S.72.3).</td><td></td></tr>
<tr><td></td><td>Agent registration:
No dedicated registration procedure and form for agent registration specified in the Act or Regulations as for brokers; rather, insurer submits agent details and agency agreement as part of licence and renewal docs. Agents thus regulated through agency agreements with insurers rather than directly supervised by TIRA
S.64(5): Commissioner may refuse issuance of agency agreement to person not meeting prescribed attributes & qualifications
Agency agreement requirements:
An insurance agent may act for one general insurer and one long-term insurer (S.62.1). If the agent has been registered for more than three years, may act for up to three insurers. An insurance broker agent may not act for more than one broker (S.62.4)
No agent or broker's agent may act outside of the terms of an approved agency agreement (S.62.5).
Each insurer submits a specimen agency agreement along with its licence application, which is then approved by TIRA – no template specified upfront.
Agent employees and brokers' agents:
S.61(4): an insurance agent employee or broker's agent may accept insurance business on behalf of the agent or broker without being registered, but subject to his/her selling only the type of insurance permitted under his/her principal's agency agreement
S.64(3): the insurer/broker issues each agent and agent employee with an identity card stating the name of the insurer or broker and the class(es) of insurance that the person may transact, whether he/she may collect premiums, their name, address and photograph.
S.63(2): All premiums paid to an agent or agent employee are deemed paid to the insurer or broker
Agent qualification requirements:
S.64: the Commissioner may make regulations on minimum attributes and qualifications of agents and must approve the agency agreement issued to the insurer or broker to the agent.
S.10 of the Regulations specifies that all registered agents must have a secondary education certificate with at least 5 passes plus a Certificate of Proficiency in Insurance (3 month course)</td><td>Consultations suggest certificate of proficiency requirement may be problematic; apart from that, no direct implications, as agent framework not unduly onerous compared to other countries where the regulator licenses each agent individually</td></tr>
<tr><td>Remuneration</td><td>No commission regulation, no price caps at present</td><td>Conducive of MI market development</td></tr>
<tr><td>Proposed MI intermediation</td><td>Creates category of MI agents, defined as any individual, company, NGO, Self-Help Group or MFI appointed by an insurer to act as MI agent for distribution of MI products.
MI agents to be registered (not licensed), subject to having either a National Secondary Education Certificate or a Certificate of Proficiency in Insurance (S.7). Each MI agent to submit a simple standard form with registration and</td><td>Category created explicitly to facilitate MI market development – but could create unintended consequences if too</td></tr>
</table>

Area	Current provisions	Implications for MI market development
	must indicate which type of MI it wishes to distribute (S.8). • Must hold minimum paid up capital of TZS 500,000 (around $320) (S.6). • TIRA must issue certificate of registration to each MI agent every year (S.9.1). • Each MI agent must enter into an agreement with an insurer that clearly specifies the terms and conditions, duties and responsibilities (S.14.1). It is not specified whether the number of insurers per agent is limited, which would imply that it is open-ended. • MI agents must remit premiums to insurers within 15 days from when received (S.14.3) • In addition to sales, MI agents may perform a broad range of functions including premium collection and administration (S.14.2). • MI agents are entitled to a commission; no further requirements or limitations are set	narrowly defined
Bancassurance considerations	2010 paper proposed bancassurance intermediation space entailing Memorandum of Understanding between TIRA and Bank of Tanzania (BoT). Under proposed regime: • Intermediation only, no underwriting • Banks would apply for special registration with TIRA, submit notification to BoT • Banks to satisfy Commissioner of internal training program to ensure staff skills in insurance sales and servicing at same level as brokers and agents. Hence no individual bank agent/representative licensing or qualification/Certificate of Proficiency requirements • White-labelling under bank brand allowed, but with disclosure of underwriter • Banks to file annual returns with TIRA, copied to BoT • Tied sales prohibited - though taking out insurance could be a condition to the loan, customers must have a choice of insurance provider and this must be properly disclosed to them.	• Current framework does not prevent banks from acting as agents or brokers if meeting standard requirements; nevertheless dedicated bancassurance provisions will further facilitate MI development

Table 6: Main features of intermediation regulatory framework

Source: Insurance Act 2009 and Regulations

Below we consider firstly the relevance of the provisions of the current regime for microinsurance, followed by a discussion of the proposed changes under the draft microinsurance regulations:

Brokers and agents as "traditional" intermediaries. The Insurance Act allows for brokers and agents (individual as well as corporate) to be registered with TIRA. Details regarding the qualifications that brokers and agents must meet and the registration process are contained in the Regulations, as set out in the table above. There is no provision for distribution by entities other than brokers or agents (for example aggregators such as MFIs, banks, associations or cooperatives), though the agent category would seem broad enough to encompass distribution by a range of aggregators. In practice some of these aggregators prefer not to enter into agency agreements. Instead, they just act as distributor receiving an "administrative fee" – a situation that there has been no clampdown against thus far. The Act is also silent on direct distribution by insurance staff, but this seems not be prohibited.

Uncapped commissions in line with microinsurance best practice. The fact that there are no commission limits is in line with the IAIS Application Paper, of which par. 3.22 states that:

> "Restrictions on commissions that create a disincentive to provide services to the underserved segment of the population should be avoided. Additionally, particularly when intermediaries have an increased role in other areas such as on-going servicing functions, remuneration should encourage effective servicing beyond the point of sale".

The argument against capping of commissions in microinsurance is that low-premium policies can only viably be sold at commissions that may look high in percentage of premium terms, but are still low in absolute terms. Given the generally low premiums in the microinsurance market, the microinsurance bottom line looks different to that of other insurance products and distribution expenses tend to be higher relative to the premium[31].

No explicit licensing of agents. Only brokers are licenced outright by TIRA and need to meet specific application and prudential requirements; agents are regulated indirectly through their agency agreements with insurers. The insurer is therefore held accountable for agent conduct.

No detailed intermediation regulation outside of licensing/registration requirements. Intermediaries are subject to the insurance industry Code of Conduct and Ethics (see the discussion in Section 2.1.5 below), which covers market conduct in a number of sales process and other areas. Apart from that, there is no direct regulation of the sales process or supervision in practice of disclosure practices; once brokers are licensed and agents are registered, it is expected that they will engage in proper market conduct.

Challenges for microinsurance of current regime. A few challenges relating to intermediation regulation were highlighted in the industry consultations:

- The requirement for a maximum of three insurers per agent has been highlighted as limiting by some banks, who would be in favour of dedicated bancassurance regulations (see the discussion below). In other jurisdictions, banks overcome such restrictions by setting up subsidiary brokerages.
- There is also an apparent challenge in enforcing agent regulation, as some banks or other entities act as distribution partners or entities without agent registration.
- The requirements for broker registration and qualifications do not seem to be problematic, but a number of players raised concerns regarding the Certificate of Proficiency required of agents as increasing costs and not meaning much in practice. Rather, insurers need to train agents in-house to ensure that they have the requisite skills.

[31] This implies that margins are thin and/or that claims ratios tend to be somewhat lower than for some other types of insurance. For example: 15% of a TZS 100,000 premium will amount to TZS 15,000 in intermediary income, but the equivalent commission on a TZS 10,000 premium will only be TZS 1,500. This may mean that it will not be viable for an intermediary to sell TZS 10,000 premium policies should commission hypothetically speaking be capped at 15%, as they are unlikely to reach the volume required for viability under such a scenario.

- There are no specific rules for third party administrators fulfilling a broader set of administrative functions than the typical agent functions.

Our overall assessment is that the current intermediation framework does not hamper inclusive insurance market development as such, yet could more explicitly facilitate it by providing for a broader range of functions by a broader range of aggregators. There is furthermore scope to lift the restriction in the number of agency agreements (see Box 4 for some considerations in this regard).

Box 4. How many insurers may an agent represent?

The argument for one insurer per agent is that the conventional definition of an agent is a person or entity that represents the insurer (versus a broker, which is independent and represents the client, offering them a choice between different insurers' product offerings). Hence such a person should not represent more than one insurer and bring the client under the false impression that he/she/the company is offering an impartial recommendation. However, this removes the scope for client choice. Client choice will be particularly important where third party aggregators act as insurance distribution channels and it can be argued that they should be allowed to offer a variety of insurers' products.

There is furthermore an argument to be made that, as long as the agent does not offer competing types of products from more than one insurer, the independence question does not come in. This can be referred to as the 'multi-tied' agent phenomenon whereby an agent would for example be tied to one insurer for life and one insurer for non-life insurance, or even to different insurers for different classes of policies within the life and non-life spheres, respectively. In this way, agents can distribute different non-competing products from different providers (i.e. funeral from one life insurer, household structure from one general insurer, etc.) and still provide some choice to customers.

By allowing for up to three agency agreements per agent, the Tanzanian insurance regulatory framework acknowledges the need to allow agents not to be tied to a single insurer. As the discussion below will show, the draft microinsurance regulations propose to lift the agency agreement restriction totally for microinsurance.

TIRA has already acknowledged the need to revisit the intermediation space in that they have drawn up draft microinsurance regulations (currently in the consultation stage).

Proposed microinsurance intermediation requirements

Intermediation core to draft microinsurance regulations. The heart of the draft microinsurance regulations is to open up the intermediation space beyond traditional brokers and agents by creating a new category termed *microinsurance agents*:

- Microinsurance agents are treated largely the same as other agents in that they must meet the same proficiency requirements, are also not subject to commission caps and are required to operate under an agency agreement with an insurer.
- The most notable differences in the regime include the explicit broadening of the range of entities that may become a microinsurance agent, the functions that they may provide and the fact that there is no explicit limitation on the number of agency requirements that they may enter into with different insurers. Microinsurance agents, other than traditional agents, are also required to hold some paid-up share capital.
- It is important to note that Section 13 limits distribution of microinsurance products to *microinsurance agents only*. Currently much of "microinsurance" distribution happens

through traditional brokers and agents. If this situation is not permitted to continue, some of the biggest growth points for microinsurance will be eliminated. Banks are not explicitly mentioned as a potential category of microinsurance agents, but could be included under "companies".

Caution against unintended consequences. In summary: the proposed creation of a microinsurance agent category, on the whole, is a positive development for inclusive insurance market development in Tanzania. We agree with TIRA's approach to prioritise the intermediation side above creating a prudential tier for microinsurance. The microinsurance agent definition is sufficiently broad to allow for a range of aggregators to act as agents, each allowed to distribute products of more than one insurer and fulfilling a broad range of functions. However, the fact that the agent requirements for a Certificate of Proficiency in insurance are the same as that for "traditional" agents may be limiting. Likewise, restricting microinsurance distribution to microinsurance agents and not allowing traditional brokers and agents to operate in this space will limit the impact of the framework. As stated in paragraph 3.21 of the IAIS Application Paper:

> "It may be necessary to ensure that the primary law facilitates a wide range of forms of intermediation and that supervisory rules are established covering the functional details for each permissible form of intermediary. Requirements relating to individuals should not prohibit other legal forms such as corporate entities or cooperatives acting as intermediaries. Intermediation options should be considered based on economic principles rather than regulatory bias or arbitrage (Standard 18.1)."

Further consideration is also necessary of the list of functions to be fulfilled by microinsurance agents relative to their qualification: the risk profile of the functions included in Section 14(2) (e.g. administration, premium collection, collection of proposal forms) are not all of the same order.

Bancassurance considerations in microinsurance intermediation context

Explicit need to accommodate bank-based distribution. As *Document 5* shows, bank-based distribution is one of the key drivers of microinsurance development in Tanzania at present. It is therefore important to consider the regulatory scope for bancassurance alongside the draft microinsurance provisions.

No dedicated treatment currently. The 2009 insurance regulatory framework makes no explicit provisions for bancassurance: banks have to either work through a broker or enter into an agency agreement with an insurer. From the consultations it is apparent that some banks do neither, but operate as "distributors" without a formal agency agreement. As outlined in Table 6, a June 2010 report commissioned by TIRA suggested dedicated bancassurance registration. However, the bancassurance regulatory process was put on hold due to Bank of Tanzania concerns, following the global financial crisis, that banks should not engage in non-core business.

Why explicitly make room for bancassurance? The current framework does not hinder banks from being involved in insurance distribution. However, there is no clear, level playing field, with some working through brokers, some registered as agencies and some just acting as distributors without any intermediation registration. Furthermore, as bancassurance has so far been limited to embedded insurance, the question of whether to licence individual sales staff members has not come to the fore. As cross-selling of voluntary products develops, this will become more topical, calling for a clear framework on what training or qualification requirements bank staff involved in insurance distribution must meet. As will be discussed in Section 3.2, these considerations create an imperative for considering bancassurance within the framework for microinsurance intermediation being created under the draft microinsurance regulations.

2.1.5. Consumer protection regulation

The prudential, product and intermediation regulation set out above all aim to protect consumers. In addition, there are a few aspects of the regulatory framework of specific relevance to consumer protection, as summarised in Table 7:

Area	Current provisions
Code of Conduct and Ethics of Tanzanian Insurance Industry	**General rules:** • The Code of Conduct and Ethics for Tanzania Insurance Industry is binding to all insurance-related professional bodies in Tanzania (including Tanzania Insurance Brokers' Association, the Insurance Agents' Association and Association of Tanzanian Insurers). ATI membership is compulsory for all insurers under S.24 of the Act and TIBA membership is compulsory for brokers under S.67 of the Act. • The code entrenches the principle of utmost good faith and requires insurers and brokers to abide by the general law of the land. It prohibits the acceptance of any kind of inducements, requires avoidance of conflicts of interest among insurance practitioners, as well as impartiality and cooperation with TIRA. • No CEOs or Principal Officers in an insurer, broker or agent may be employed unless they have the qualifications specified in the Regulations.
	Insurer conduct[32] • Clear specifications apply for what needs to be disclosed on the proposal form, in readable form • Misleading or extravagant advertising prohibited. • Insurers not allowed to ask questions or to require knowledge beyond what the policyholder could reasonably be expected to possess. • Where a policy covers more than one class, the premiums for each class should be specified. • In determining commission levels, insurers should have due regard for the services provided and the stature of each intermediary. • Life clients should be advised of any surrender value and advertisements should distinguish between contractual and risk benefits. • No client info should be unduly disclosed and all managerial and technical staff must have a copy of the Code and be familiar with its contents. • Every professional body should have a complaints procedure to promptly deal with complaints by clients and members of the public. • Insurers must clearly disclose claims documentation requirements to the client at policy inception stage and not unduly reject claims. Insurance employees may not deal with claims if they sold the policies. • A breach of the Code by any member shall be forwarded to the professional body for investigation,

[32] General Rules and Parts C, D and E of Code of Conduct and Ethics for Tanzanian Insurance Industry (Second Schedule of the Insurance Regulations), drawn up under S.139 of the Insurance Ac

Area	Current provisions
	copied to the Commissioner. The professional body (or Commissioner where no professional body applies) has the power to direct the member to make amendments or take corrective action, or expel it for misconduct. The Commissioner may advise the professional body to rescind or vary its decision.
	Intermediary conduct[33]: • Must act in good faith, avoid conflicts of interest, etc, as per general provisions • Detailed provisions regarding disclosure duties, objectivity, confidentiality of information, offering clients a proper choice between insurers, handling of insurance monies, avoidance of influencing clients, etc. • Brokers must make an in-depth analysis of the client's insurance needs and recommend advisable loss prevention strategies accordingly, must explain all the essential provisions, exclusions and conditions of the policy to ensure that the client understands what he/she is buying, and not charge any amount over and above the premium without clearly disclosing the amount and purpose before any work is undertaken. • In case of a claim, a broker must advise the insured/beneficiary on how to complete the claim form, stating that all information must be true and fair, as well as on the claims procedures and requirements.
Consumer recourse	• S.122 onwards of the Insurance Act provide for the formation of an Ombudsman to be appointed by the minister and funded by funds allocated by Parliament to the Authority. • The Ombudsman should receive and investigate complaints. It has the same powers of investigation as the Commissioner and may award losses of up to TZS 15m to be paid by the insurer. • Furthermore, an Insurance Appeals Tribunal, consisting of three persons to be appointed by the Minister, shall be formed to hear appeals against any decision by the Commissioner.
Grace periods	• Under S.138 of the Act a maximum of 15 days grace is allowed for general insurance premiums, after which the policy lapses. There is no requirement regarding grace periods for long-term insurance.

Table 7: Specific consumer protection provisions outside of prudential and intermediation framework

Source: Insurance Act 2009 and Regulations

Code of Conduct as consumer protection tool. It is clear from the description above that the Code of Conduct requires insurers to treat customers fairly and have clear disclosure and complaints procedure – or risk punitive action. Intermediaries are subject to the same conduct principles as insurers. The fact that the Code is enforceable, with misconduct subject to penalties, means that it carries weight.

Consumer recourse system to be implemented. Another instance where practice may deviate from theory is complaints handling. Despite the need for a proper complaints procedure outlined in the Code of Conduct, the focus groups highlight the target market's frustrations in making and seeing through claims in practice and it would not seem that they have effective complaints avenues at their disposal. Though it's explicitly provided for in the Act, there is also no functional Ombudsman service yet. According to TIRA, the regulations enabling the establishment of an Ombudsman Service and Appeals Tribunal are now being developed.

[33] General rules and Parts B, D and E of the Code of Conduct and Ethics for Tanzania Insurance Industry (Second Schedule of Insurance Regulations), drawn up under S.139 of the Insurance Act

A broader view of consumer protection. As stated in the IAIS Application Paper, it should, however, be noted that consumer recourse is not an automatic guarantee of consumer protection. The target market may not know how to use recourse mechanisms or may face difficulties accessing it. Neither is a Code of Conduct necessarily a consumer protection safeguard. The focus group findings quoted in *Document 8* suggest that consumer misperceptions and misunderstanding of insurance terms and conditions persist. This calls into question the effectiveness of the Code of Conduct in practice. Both of these considerations are particularly important in light of the rise of embedded in Tanzania (as discussed in *Documents 4* and *5*). In the case of embedded products, there is an even greater danger that consumers will not know that they are covered or how and when to claim.

A holistic approach to consumer protection thus calls for consumer recourse systems and Code of Conduct provisions to be complemented by (i) a sound prudential, product and intermediation regulatory regime as set out in Sections 2.1.2 to 2.1.4; (ii) supervisory monitoring of market indicators of consumer value (e.g. claims ratios, expense ratios and, where possible, renewal ratios – see Box 3 on page 16), with the option to respond accordingly, should concerns be raised; as well as (iii) a file and use approach to product approval whereby the supervisor has the option to prohibit products not meeting consumer protection criteria. The benefit of a file and use system over outright product approval is that it does not create an undue demand on supervisory capacity to approve each and every product upfront.

Grace period provisions not yet designed with consumer needs in mind. The maximum 15 days allowed for premium payments is a provision to protect insurers rather than to extend grace to mass market clients. In line with the top-end traditional market focus, life premiums are normally paid annually in advance, with cover being conditional on the payment of the premium. Thus grace periods have not been an issue thus far. Yet, going forward, it may be an important consideration to take into account for microinsurance. Low-income households are likely to earn their income from multiple sources, often in the informal economy. Income levels are therefore often variable. This may make it difficult to maintain regular premium payments. The risk is that a person may pay premiums regularly for years, just for the policy to be cancelled if they miss a payment, and then being unable to claim.

Box 5. Grace period considerations: comparative international examples

To ensure that such policy holders are not unduly disadvantaged by their irregular cash flow, it is advisable that microinsurance policies be subject to a grace period if a premium(s) is not paid when due. A grace period can for example entail that cover will continue for one month after the due date of the premium. The outstanding premium may be paid any time during that month without compromising the cover. If the premium is not paid within the month of grace, the cover will cease after that month. Should a policyholder submit a claim during the grace period, the value of the claim may be reduced pro rata by the sum of the unpaid premium/s, including interest.

The question is how long this grace period should be. In the case of for example Peru, a 30 day grace period is required, while the Philippines requires a maximum grace period of 45 days from the date of default of premium payment[34]. The length of the grace period is normally tied to the time period for which the insured has maintained the policy (for example: one month grace period in the first year, two months after two years, etc., up to a maximum of six months).

[34] Philippines Insurance Commission, Insurance Memorandum Circular 1-2010.

2.2. Ancillary regulatory framework

This sub-section considers the main ways in which regulatory areas outside of the direct insurance regulatory framework impact the development of an inclusive insurance market.

2.2.1. Broader financial system regulatory framework

The insurance sector forms part of the broader financial sector in Tanzania. It is not necessary for the purpose of this analysis to consider the details of financial sector regulation, but specific elements of the banking regulatory framework, as contained in the Banking and Financial Institutions Act of 2006, the microfinance framework contained in the National Microfinance Policy of 2000 as well as the payment system regulatory framework are relevant from an insurance distribution point of view:

Banking framework

Banks not prevented from intermediating insurance. The most impact of banking frameworks on microinsurance arises if the banking act places a restriction on banks not to be involved in business other than their core business. Specifically, some jurisdictions (for example Kenya[35], Uganda and Colombia[36]) prohibit banks from intermediating insurance other than policies on which they have an insurable interest. This would imply that, while banks may provide credit life insurance on the value of outstanding loans, any insurance intermediation over and above that would not be allowed. However, there is no such prohibition in the Tanzanian Banking and Financial Institutions Act of 2006. In principle, therefore, there is no prohibition on bancassurance.

Banks may set up insurer or broker subsidiary. Furthermore, Section 24(2) of the Banking and Financial Institutions Act allows banks to underwrite insurance through a separately incorporated subsidiary or "engage in any other activity related to banking business as approved by the Bank [of Tanzania]", which could include setting up of an insurance brokerage or entering into an insurance agency agreement with an insurer. Where this is the case, the subsidiary will still fall under the supervision of the Banking and Financial Institutions Act, though presumably they would also be regulated under the Insurance Act of 2009 for functional purposes.

Microfinance framework

No regulation of MFIs in practice. The National Microfinance Policy of 2000 was developed in recognition of capacity and other challenges in the microfinance industry and the need for a unifying policy that cuts across different types of entities providing microfinance. It is stated largely at the principles-level and emphasises the need for capacity building in the sector. Specifically, it states that only those MFIs that take deposits will be subject to prudential regulation and supervision. The Bank of Tanzania has overall responsibility for the implementation of the policy.

[35] In Kenya, this restriction is imposed under the Banking Act. However, a case by case exemption approach is being followed to allow the provision of bancassurance beyond insurable interest (Smith, Chamberlain & Smit, 2010).

[36] In Colombia, banks are restricted to intermediating certain types of insurance products deemed "suitable". This does not just limit bancassurance to credit life on which there is an insurable interest (Caceres & Zuluaga, 2008).

Under the Banking and Financial Institutions Act, deposit-taking MFIs would be regarded and regulated as financial institutions, specifically as microfinance companies. However, indications from the consultations are that few if any MFIs have opted to register as financial institutions and carry the resultant compliance burden. In practice, the MFI industry is unregulated, with no prudential guarantees, no consumer protection measures such as interest rate ceilings and no rules regarding how customers should be treated. The Bank of Tanzania and Ministry of Finance are aware of this dilemma and are currently reconsidering the microfinance regulatory framework, including that for SACCOs.

Microfinance policy does not inhibit insurance distribution. As with banks, there is no prohibition on MFIs to distribute insurance beyond their insurable interest or to engage in business other than their core business. The framework also does not place any limitations on compulsory credit life. There is therefore nothing in the microfinance framework that specifically undermines or challenges microinsurance distribution. However, the overall lack of oversight and prudential regulation of the MFI sector may reinforce the capacity issues in the MFI and SACCO sector and, hence, their ability to be effective microinsurance distribution channels. Furthermore, where MFIs are not subject to any microfinance regulation, it means that no culture of compliance is cultivated. Thus it may be difficult to achieve compliance of insurance intermediation regulatory requirements.

Payment system framework

The payment system framework is of relevance to microinsurance in that payments form the backbone for insurance premium collection and claims payment on the one hand, and payments providers such as mobile network operators are an important emerging distribution channel for microinsurance on the other hand.

No comprehensive payment system regulatory framework. There is no National Payment Systems Act in Tanzania yet. The gist of the policy approach to the payment system is set out in the National Payment System Vision and Strategic Framework, 2005. The payment system regulatory framework, which will include provision for e-money, is now under development. In developing it, the Bank of Tanzania coordinates with the Tanzania Communications Regulatory Authority. In the meantime, payment system provider licensing, for example for the mobile money operators, is done on a case by case basis.

No indications of implications for microinsurance development. The way that the payment system is run currently does not hold any apparent implication for microinsurance. Though the certainty of a comprehensive National Payment System Act will be welcome, the way that payments providers are regulated in practice sufficiently allows for mobile money models and does not hamper the introduction of insurance offerings on the back of mobile networks' infrastructure. Rather, the main regulatory considerations for MNO-driven insurance distribution lie in intermediation regulation and the know-your-customer requirements imposed under AML/CFT regulation (see Section 2.2.4).

2.2.2. Electronic commerce framework

Innovation in microinsurance distribution often entails the use of electronic contracting, electronic records and digital signatures (for example, where a client signs up over the phone or by SMS message and then receives policy information electronically). Electronic client interactions can serve to reduce costs and enhance efficiency. Whether or not this is allowed for in regulation may play an important role in the development of the market. Typically, the insurance regulator's focus is on the sales process, making sure that no consumer protection concerns arise, rather than on the mode of contracting, which is a matter of contract law or e-commerce law, rather than insurance law.

Box 6. Electronic commerce regulation: examples from Ghana and South Africa

There are numerous examples, internationally, of insurance contracts being entered into without a physical signature, for example via SMS confirmation, over the internet or over the phone. In Ghana, for example, MicroEnsure has launched MiLife mobile insurance is provided in partnership with network operator MTN in Ghana, underwritten by UT Life. Customers buy, manage their policies and claim via their mobile phone. Premiums are paid via MTN Mobile Money, a mobile wallet/payment solution.[37] Ghana enacted an Electronic Transactions Act (Act 772) in 2008. It covers, amongst others, electronic contracting, electronic records and digital signatures[38].

There are also a number of insurance products in South Africa that rely on contracting through a recorded call centre conversation or via SMS message. The Electronic Communications and Transactions Act 25 of 2002 allows for legal recognition of electronic contracts, electronic signatures and electronic records[39].

Electronic contracting not yet formally regulated. In Tanzania, the National ICT Policy of 2003 identified the need for e-commerce regulation. Thus far, the Income Tax Act (2004) was amended to recognise electronic transactions for tax administration purposes and a draft bill and draft regulations on Electronic Payment Systems have been developed[40]. Electronic contracting is therefore implicitly allowed, if not yet formally regulated, in Tanzania.

Physical signatures, in-person sign-up still the norm. In practice, most insurance contracts in Tanzania still require physical signatures, even in innovative new models such as Tigo Bima. It is not clear whether this is due to regulatory requirements or is just entrenched industry practice. The Tigo consultation revealed that a physical signature is needed as a legal requirement by insurers for the claims process. Another insurer, NIC, has opted for fully electronic sign-up (via a USSD menu on a cell phone) for its new personal accident insurance for tricycle taxis. The Vodacom/Heritage Insurance offering also relies on electronic sign-up. In the absence of clear regulatory rules on electronic contracting, whether or not to require a physical signature is therefore an individual decision made by insurers in light of their assessment of the risk that an electronic contract will be challenged in court. The decision to sign up customers in person is also driven by the requirements of the AML/CFT regulatory framework (see Section 2.2.4).

2.2.3. Societies framework

A closer look at the regulatory framework for societies in Tanzania is relevant on two fronts:

[37] Gross, 2011. Presentation at 7th International Microinsurance Conference. For more information on all models, see www.microensure.com
[38] Available at: http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/WPFD2009/pdf/Ghana%20Electronic-Communications%20Act%202008.pdf
[39] http://www.irmsa.org.za/library/iforest/Michalsons%20Infosheet%20-%20Guide%20to%20the%20ECT%20Act.pdf
[40] http://r0.unctad.org/ecommerce/docs/EAC_report.pdf

- As the discussion in *Document 2* shows, cooperatives are one of the largest clusters of current and potential aggregators for microinsurance distribution purposes. In some countries, cooperatives are also candidates for microinsurance provision, should a microinsurance licence be created in regulation that opens up the institutional space beyond companies. It is therefore important to understand the main parameters of their regulatory framework.
- Benefit and friendly societies are exempted from the provisions of the Insurance Act of 2009. Internationally, such societies often play a pervasive role in community-based risk pooling and it would be important to understand what their regulatory framework entails in Tanzania.

Below, we unpack firstly the cooperative societies regulatory framework, followed by a discussion of the framework for non-cooperative societies. For each, we focus specifically on the potential implications for microinsurance.

Cooperative regulatory framework (Cooperatives Societies Act 2003)

Formation and registration. Cooperatives societies include agricultural societies, savings and cooperative societies, school societies and financial cooperatives, which can be primary societies, secondary societies or federations. All such societies meeting cooperative principles as defined in the Act (S.4) may be registered under the Act (S.3). S. 4 refers to *may* rather than *must* be registered. All cooperatives societies are regulated by the Registrar of Cooperative Societies (S.10) under the Ministry of Agriculture, Food Security and Cooperatives. 20 or more persons are needed to form a SACCO, 50 or more to form an agricultural society and, for the rest, 10 or more (S.15.1). Some common bond or need is a prerequisite for membership (S.15.2). Registration requires an application form and the by-laws to be submitted, as well as a feasibility study (the format and contents of which are not specified) (S.24).

Governance. Sound governance of cooperatives is provided for through two sets of requirements:

- *Institutional structure*. S.45 sets requirements for what the by-laws should cover, including the objectives of the society, the nature of members' liability, the manner and powers of meetings, and how the appointment of board members and officers works. Control of the society rests in the general meeting (S.61), which must be held at least once a year. The general meeting appoints the board and makes all financial decisions. Every registered society must establish a board (S.62) of at least 5 members (S.63). They may also appoint management and admin staff (S.64).
- *Code of Conduct*. S.125 allows for a Code of Conduct that all societies must adhere to, which is contained in the Schedule. It is based on international cooperative principles and requires voluntary membership, democratic member control, as well as for the cooperative to be governed through an annual general meeting and for board members and executive staff to be accountable to members

Prudential regulation. S.25 stipulates that no society may be registered unless the volume of business from members is sufficient to cover its costs and proper provision has been made for the financing of the society. The act is fairly comprehensive in terms of the typical prudential framework for cooperatives, including the need for an internal auditor (S.48) and annual audited financial statements, plus requirements for reporting to the Registrar. S.73 sets investment restrictions, the bylaws must allow for raising of funds by fees or issuing of shares (S.75) and any society which profits from transactions must maintain a reserve fund (S.77), with the proportion of annual net surplus to be placed in a reserve fund to be prescribed by the rules and bylaws (which must in turn be approved by the Registrar as part of the registration process).

The Registrar has powers of inspection (S.91) and may order an inquiry into societies' affairs (S.90). There are also extensive winding up, dissolution and liquidation provisions (Part XIII). The Minister has the power to make rules in consultation with the Registrar on various matters related to the implementation of the Act (S.131) and the Registrar has the power to make regulations regarding accounts to be kept, returns to be submitted and generally any matter to ensure proper administration of registered societies (S.132).

Insurance intermediation not explicitly provided for. Insurance provision or intermediation of financial services is not listed as among the allowed functions of primary societies (S.18). As several SACCOs already act as insurance distribution channels, this would not seem to be a barrier in practice. S.19 allows the objectives of secondary and apex societies to include "to provide services to Primary societies as will be provided for in the by-laws of the Secondary societies".

Implications for microinsurance? In general, the cooperatives regulatory framework is comprehensive and modern and makes provision for proper corporate governance. This would be important from an institutional regulatory point of view, should cooperatives explicitly be allowed to intermediate or underwrite insurance. However, it is not clear how effective enforcement of the framework is in practice. Indications from consultations are that cooperatives are generally not well capacitated apart from a few larger and stronger SACCOs and that there are challenges to roll out and enforce national legislation at the regional and local levels[41].

Benefit and friendly societies framework

Exempted space in Insurance Act. The definitions section of the Insurance Act defines a friendly society as an association of people with no share capital, established to aid members and their dependents, where the society does not employ any people with the primary purpose of canvassing of new members or collection of contributions. This is in line with the standard understanding of a friendly society, internationally.

Benefit societies are not defined anywhere in the Act, but Section 2(3) excludes "a person registered in terms of any law relating to benefit societies" from the application of the Act. S.22 of the Act furthermore excludes friendly society death or permanent disability benefits below the sum specified by the Minister in regulation from the provisions of the Act[42]. S.42 of the Insurance Regulations sets the exemption threshold at TZS 10 million (about USD 6,435). It states that it does so for the purpose of Section 15 of the Societies Act.

[41] This is in part a side-effect of the three-tier government structure in Tanzania as discussed in *Document 2*.

[42] Note drafting anomaly in the Insurance Act - S. 22 wording says it does apply to friendly societies, but heading refers to exclusion of friendly societies

Societies Act as "regulatory home" for benefit and friendly societies. The Societies Act Cap.337 R.E. 2002 is the new name for the legislation previously known as the Societies Act Ordinance, Cap 337, 1954. Section 15 provides for the registration of societies, which is done by the Registrar of Societies under the Ministry of Home Affairs. The Act defines a society as: "any club, company, partnership or association of ten or more persons whatever its nature or object", excluding a list of entities including registered companies, trade unions, sports associations, cooperative societies registered under the Cooperative Societies Act and "any company, association or partnership consisting of not more than twenty persons, formed and maintained for the sole purpose of carrying on any lawful business". The latter would seem to require a common bond as primary reason for existence.

No prudential regulation. Though the Societies Act gives the Minister the power to, amongst others, request rules and financial statements from societies, there seems to be little prudential regulation in practice. The Act also does not make any reference to provision of financial services in general or insurance in particular and hence does not in any way regulate societies' conduct in this regard.

Implications for microinsurance? The consultations and focus group discussions did not pick up on any significant informal risk-pooling activities happening under the benefit and friendly societies exemption to the Insurance Act. TIRA does not have any knowledge of the landscape of such societies or the extent to which they provide risk-pooling benefits, as it is outside of their jurisdiction. Indications are that the exempted space is not used in practice. Should it be used, there is no prudential oversight or enforcement of the benefit limit of TZS 10 million. Neither would there seem to be any on-going regulation in practice under the societies regulatory framework. This could create scope for exploitation by unscrupulous players. At the same time, the space can facilitate development of new models and no related issues or complaints have arisen so far. It is therefore advisable that TIRA maintains and monitors this space, with the option of reconsidering it, should consumer protection issues arise[43].

2.2.4. Anti-money laundering framework

Insurers to perform customer due diligence whenever selling a policy or paying a claim. AML/CFT provisions in Tanzania are contained in the Anti-Money Laundering Act of 2006. The Financial Intelligence Unit issued AML/CFT Guidelines specifically to insurers (Guideline No. 4) that are effective as of 1 April 2011. Under the Guidelines, insurers are required to perform customer due diligence (CDD – also often referred to as KYC or "know your customer" requirements) whenever they enter into a business relationship with a client. This will entail identifying each customer by obtaining and recording information regarding their identity (a number of identity documents are accepted), residential address and contact details. Importantly from a transaction cost perspective, such information must be verified against "reliable, independent sources" and records thereof must be retained for 5 years. It is not stated what would constitute a reliable independent source. When paying out a sum assured, the identity of the payee must likewise be established and verified.

[43] In the meantime, it is advisable that the contradiction in the wording of S.22 of the Act be removed and that it should be clearly defined what a benefit society is versus a friendly society and under what conditions they can provide insurance services.

CDD requirements may create barrier. Though CDD requirements were not highlighted as a barrier in the consultations *per se*, some in the market perceive the CDD requirements to push up transaction cost, thereby impacting on the viability of microinsurance. The likely implications for microinsurance are:

- While the guidelines allow for enhanced CDD for politically exposed persons (PEPs) and other higher-risk categories of customers, it contains no provisions for reduced CDD for categories of low-risk customers (as would typically be the case for microinsurance). It may therefore be that the cost of identifying microinsurance clients, verifying identity, recording such information and storing records is disproportionate to the level of risk posed by microinsurance.
- Significantly, the Guidelines do allow for non-face-to-face origination (e.g. where a microinsurance client would sign up for a policy over their mobile phone) – as long as the CDD applied is equally stringent as for face to face. It is not clear what "equally stringent" would entail. In practice, the upshot is that the insurers consulted, including those who use mobile channels, still sign up clients in person. The exception is insurance cover added on an embedded basis to a bank account or loan – in which the client is already identified by the financial institution in question.
- Another significant provision from a microinsurance perspective is that agents are allowed to perform CDD on behalf of insurers, should the insurer be satisfied that they have the capacity to do so and meet all the requirements under the Guidelines. In the final instance, the insurer remains responsible.

Microinsurance poses low money laundering/terror financing risk. The types of policies that would typically be aimed at the microinsurance market are not included in the list of insurance products mentioned in the AML Guidelines for Insurers as typically vulnerable to money laundering or financing of terrorism. Indeed, as discussed in Appendix 1, it can be argued that they can be classified as low-risk from an AML/CFT point of view. Emerging international guidance regarding a risk-based approach to AML/CFT (see Box 7) suggests that regulators would be justified in providing guidelines that allow risk-based CDD requirements for microinsurance.

Box 7. Can a lower AML/CFT burden be justified for microinsurance?

The purpose of AML/CFT regulation is in the first instance to mitigate risk of ML/CT by identifying and profiling clients and monitoring for suspicious transactions. In the insurance sphere, it is only insurance products that insure valuable assets (where fraud can be committed) and those with an investment or endowment component that typically attract ML/CT risk. It is unlikely that small value policies where the trigger for pay-out is death or health, for example, will be used by money launderers. This makes microinsurance low risk for AML/CFT purposes.

According to the FATF principles, a risk-based approach can be applied whereby classes of services or providers may be treated differently based on the level of risk of money laundering and financing of terrorism that they pose. In June 2011, FATF published a guidance paper on the interplay between AML/CFT and financial inclusion[44]. The paper acknowledges that financial exclusion may be a money laundering risk (i.e. that financial inclusion supports, rather than undermines, financial integrity). Hence, it may be appropriate to apply a risk-based approach also to categories of low-risk customers, not just to high-risk customers as is traditionally the case.

The argument that financial inclusion and financial integrity are complements furthermore implies

[44] The paper can be downloaded from: http://www.fatf-gafi.org/dataoecd/62/26/48300917.pdf

that efforts to promote financial inclusion by reducing costs through electronic recordkeeping should be encouraged. Electronic recordkeeping is allowed for in principle under the FATF recommendations. Where monitoring and reporting are concerned, it may be more difficult to justify a concessionary approach. Especially where lower CDD requirements are applied, monitoring and reporting may need to be emphasised to ensure that abuses do not take place.

The principle of proportionality is also entrenched in the IAIS Insurance Core Principles. The IAIS Application Paper includes consideration of ICP22 on Anti-money Laundering and Combating the Financing of Terrorism. It states that:

"4.48 When seeking to enhance access to inclusive insurance markets, supervisors should (Standard 22.1):

4.48.1 Determine the level of money laundering / terrorism financing risk posed by products targeted toward underserved markets in the jurisdiction; and
4.48.2 Based on the assessment, tailor the AML/CFT regime applicable to the particular risk level. This may entail a simplified in CDD requirements or alternative approaches.
4.48.3 The AML/CFT regulations for microinsurance need to provide for controls, which are risk-based and, therefore, not unnecessarily burdensome on the supervisors, insurers or public.

4.49 Regulations relating to AML/CFT need to allow for agents acting as the customer interface and as the extended servicing-arm of the insurers. They may need to allow for electronic transactions and documentation, which simplify, economise and speed up insurance activities."

A full overview of international precedents for lower CDD requirements for microinsurance as well as of emerging best-practice in the FATF and IAIS space is provided in Appendix 1.

3. Conclusion: interplay between regulation and market development

3.1. Current and future drivers of market development

It is important to understand in what way regulation drives market development alongside the context, demand and supply-related drivers identified in the other diagnostic documents, as these "undercurrents" ultimately shape the size and the nature of the opportunity, as well as the roadmap for unlocking it.

Regulatory framework facilitative of market growth thus far. It is clear from the analysis above that the regulatory framework does not pose any absolute barriers to market development. Neither has it in any drastic way incentivised microinsurance-specific growth. The analysis in *Documents 3, 4 and 5* shows that there has been dramatic growth in the Tanzanian insurance market over recent years. While premiums have grown in the traditional, upper-end of the market, there has also been a marked rise in the number of microinsurance policies. This phenomenon is linked mostly to growth in health insurance premiums, embedded cover provided on the back of deposit accounts or loans and, recently, cover linked to mobile network subscription. All of this happened under the current regulatory framework: it has facilitated the entry of a number of new players, allows flexibility in the bundling of product features and does not create any particular barriers to operation. Though the institutional space is in practice limited to companies only, the lack of capacity in the cooperative sector has meant that this is not a barrier to inclusive insurance market development.

The regulatory framework has therefore been more like a backdrop on which market development has taken its course than a forceful driver thereof. Nevertheless, it is important to understand the regulatory levers that impact on market development in order to effectively use regulation to steer market development going forward.

Positioning the framework for the next wave of growth. Some cracks are starting to appear in the industry growth picture. As indicated in *Document 4*, the current growth phase is starting to taper off and the increased competition among a number of small insurers, coupled with poor client value and high expenses, may undermine the sustainability of some smaller insurers. This is a warning light to the regulator and calls for reconsideration of the insurance regulatory framework so as to facilitate the next wave of growth while ensuring prudential soundness and consumer protection. Various developments within the regulatory sphere indicate a willingness by the regulator to take this challenge head-on:

- *Regulatory discretion applied as inclusion-friendly tool*. The Insurance Act grants broad powers of discretion to the Commissioner on areas where the Act does not make a specific pronouncement. This discretion has been applied to facilitate market development in a number of instances, for example by allowing general insurers to underwrite funeral under the miscellaneous category[45], in order to allow foreign investment upon application or by allowing brokers to place insurance abroad where it's not available in-country. The danger of supervisory discretion is however that it can create uncertainty in the market regarding exactly what is acceptable and what not. If a specific dispensation is granted to some players but not others, it could also lead to an unlevel playing field. Thus clear stipulations that set the rules of the game to all players on a particular topic are desirable.
- *Prudential framework to be scaled up*. The analysis of the prudential regulatory framework points to a generally adequate framework. However, the regulator recognises the need to move towards risk-based capital and generally to strengthen entry requirements and solvency so as to ensure the continued sound operation of all insurers. This would also be required to move towards more comprehensive compliance with the new IAIS ICPs. Interestingly, one of the focus group respondents also picked up on the need for sound prudential regulation to build trust in the market:

  > "The size of the company doesn't matter, they should just improve their services. You know, these days people start a lot of small private insurance companies. What is needed is for the government to put a tight leash on these companies and monitor them thoroughly". (Group 2: voluntarily insured men, Dar es Salaam)

- *Intermediation space to be opened up*. TIRA has also acknowledged the need to reconsider the intermediation regulatory space in order to facilitate microinsurance market development. The draft microinsurance regulations propose to lift the traditional broker and agent-only intermediation restriction in favour of dedicated microinsurance agents. In the process, it however risks disenfranchising the current broker and agent industry, which already plays an important role in microinsurance-relevant innovation and market making. Unless a new approach to microinsurance agent qualifications is taken, some of the challenges in the existing framework may also be perpetuated.

[45] The question of the demarcation between life, non-life and health insurance, as well as the definition of microinsurance will be considered in more detail in the diagnostic report. We shall also comment on these aspects in our submission on the Microinsurance Regulations once they are released for public comment.

A few further areas in and outside of the insurance regulatory framework call for attention:

- *Responding to informal activity*. The market analysis did not point to significant levels of informal risk-carrying, especially not among so-called benefit or friendly societies. However, some MFIs do provide in-house credit life cover outside of the insurance regulatory net. Furthermore, as discussed in *Document 6*, private community-based health insurance funds play an important role in risk management for the low-income market, yet are completely unregulated under the argument that they do not provide "insurance". These activities require TIRA to engage on the questions of who to include, on what basis to do so and what enforcement strategy to implement.
- *Building insurance skills*. For valid reasons, the Tanzanian regulatory framework emphasises the use of local human resources. As discussed in *Document 4*, a dearth of insurance-specific skills is one of the main challenges facing the industry. This highlights the need for capacity building and training of staff within industry, as well as strengthening of insurance training facilities such as the Institute for Finance Management. TIRA can play a proactive role to take the lead in encouraging capacity building within industry. In doing so, it can use the microinsurance stakeholder working group/steering committee. The role of such a group to drive microinsurance development is set out in *Document 1*.
- *Safeguarding of electronic contracts*. The absence of electronic contracting law is not a barrier in Tanzania yet. However, it is inevitable, especially with the entry of mobile network operators as distribution channels, that electronic contracting becomes more pervasive. If this is the case, it will be important to consider regulation to safeguard the electronic contracting process (for example through encryption standards).

3.2. Imperatives

The key regulatory features and the way that they drive market development – currently or in future – create a number of regulatory imperatives towards microinsurance growth at scale. We highlight five regulatory imperatives to be considered by TIRA:

1. General review of prudential requirements instead of separate microinsurance licence

The market analysis suggests that it should not currently be an imperative to encourage further entry of small players. Hence we support the stance taken by TIRA in the draft microinsurance regulations not to create a separate prudential tier/dedicated licence for microinsurance provision. A stronger, sustainable market is conducive to microinsurance development even without provision for a dedicated microinsurance licence. We support TIRA's existing plans to strengthen prudential regulation, but would caution against over-hasty adoption of complex international approaches in this regard.

Though a move towards risk-based capital is advisable in principle, it would be important not to rush to adopt a Solvency II-type regime that is proving complex even in highly developed markets. If and when TIRA does embark on a risk-based capital framework, it would be important to strike a balance between the current situation and the extreme of Solvency II in a way that can be implemented in practice and without imposing a high burden on small or niche insurers.

In the meantime, it will be desirable for TIRA to remove the current scope for actuary discretion by giving clearer guidance on methodology for life company liability calculations so as to facilitate more standardisation in the approach applied across insurers. This will reduce the scope for widely differing valuation. It will also allow for more effective supervision enabling the regulator to more easily understand the results reported and make for greater comparability between insurers.

In all of the above, TIRA should explicitly take into account the need for proportionality (regulation tailored to the nature, scale and complexity of insurance business) – not only for high-risk classes, but also should microinsurance be explicitly defined as a low-risk class. The IAIS Application Paper provides valuable application guidance in this regard.

Institutional space

In line with the recommendation not to pursue a separate prudential tier for microinsurance, there is also no specific rationale to open up the institutional space for insurers to cooperatives or other community-based entities at present. Capacity constraints in the SACCO and cooperative sector as well as the challenges in the enforcement of the institutional regulation of cooperatives suggest that there are unlikely to be ready "takers", should the institutional space be opened up.

Should a large SACCO or another cooperative want to underwrite risks directly, it can incorporate a company in which its insurance underwriting business can reside. TIRA can monitor the situation and consider opening up the institutional space at a later stage, should the need for it become apparent. This will be in line with a test and learn approach advocated under the G20 Principles for Innovative Financial Inclusion (see Box 2, page 15).

2. Consider regulatory treatment of community-based health insurance schemes

Private community-based health insurance schemes currently operate outside of any prudential regulatory framework. *Document 6* shows that they provide a very important service and growth point for health service provision in rural areas, with focus group evidence suggesting that clients value the service provided. Given the important role of health insurance emerging from the demand-side findings (*Document 8*), there is need for explicit protection of consumers in this sphere. As these institutions grow, they will tend to evolve more and more into the insurance sphere, with guaranteed products, instead of just providing prepaid services. This will increase the need for regulatory oversight. Further consideration is thus needed of the functions fulfilled by such schemes, how the model works and whether it amounts to insurance.

More broadly, this point speaks to the need to consider the role of private insurance relative to other mechanisms in the health financing space and, hence, the role of TIRA vis-à-vis other regulatory entities. As a first step, more explicit intra-government coordination on the topic is called for.

3. Make microinsurance distribution options as broad and flexible as possible

We recommend that TIRA leverages the planned microinsurance stakeholder working group/steering committee process to resolve outstanding questions in the draft microinsurance regulatory framework. In this way, the resultant framework will speak to market realities while remaining true to regulatory objectives.

The proposals in the draft microinsurance regulations for a microinsurance intermediation space are generally encouraging, but care needs to be taken to be as flexible as possible in designing the regime. Particularly, the microinsurance distribution space needs to be **broadened beyond just microinsurance agents** to include traditional brokers and agents and to specifically allow for bank-based distribution. Though this is not a prerequisite (given the fact that banks may already distribute insurance under the current insurance framework), we would furthermore support the revival of the bancassurance framework and for its provisions to be harmonised with the proposed microinsurance distribution space.

Indeed, we recommend that the microinsurance space draws on the proposals in the bancassurance framework regarding an **in-house training programme** for staff rather than requiring microinsurance agents to possess a certificate of proficiency – a requirement that, from the consultations, adds cost without sufficiently equipping individuals to remove the need for in-house training. The focus group research suggested that, despite the current agent qualification requirements, some agents do not necessarily know enough about the features of the products that they are selling. We thus agree with the recommendation of the bancassurance report that the level of training required for insurance sales staff should correspond to the complexity of the products sold. Accordingly, the specific requirements of those selling only products that meet the adopted definition of microinsurance (see below) would be different/lower than for those selling more complex products.

Where insurers are held accountable for agent and staff actions, as well as to train them up, less emphasis needs to be placed on the actual training requirements to be met. Such an approach is being followed by a growing number of countries, internationally (including Brazil, Colombia, India and the Philippines). It is up to TIRA, in consultation with stakeholders, to decide what the actual minimum microinsurance agent training would be that is sufficient to ensure adequate market conduct and consumer protection in the microinsurance sphere. It is important to be realistic and pragmatic, emphasising familiarity with the product and the ability to explain it to the customer over formal qualifications and to take account of transaction cost implications in determining where to set the bar.

Box 8 considers the training requirements adopted in India and the Philippines, respectively, as comparative international examples.

Box 8. Comparative international examples: training requirements

In **India**, microinsurance agents must enter into a "deed of agreement" with one life and/or one non-life insurer. Only non-profit organisations (such as self-help groups, NGOs or MFIs) may register as microinsurance agents. For-profit entities such as rural banks and for-profit MFIs remain excluded. A microinsurance agent cannot distribute any product other than a microinsurance product (IAIS/MIN JWGMI, 2008, based on M-Cril, 2008).

Concessions for microinsurance agents. While all types of intermediaries may distribute microinsurance, only microinsurance agents are granted certain concessions in doing so. Once registered as a microinsurance agent, lower training requirements apply. Microinsurance agents abide by the Code of Conduct defined by the Insurance Regulatory and Development Authority (IRDA). They must undergo 25 hours rather than the 50 hours of mandatory training for traditional agents – paid for by the insurer. There is no qualifying examination, unlike the case of ordinary insurance agents.

Philippines. According to the Insurance Commission of the Philippines' Insurance Memorandum Circular 1-2020, "A microinsurance agent/broker shall not be required to take the regular licensure examination. He/she shall undergo a duly approved and prescribed microinsurance training program and pass a qualifying examination at the end of such training program."

In 2011, the Insurance Commission provided guidelines to insurers on what such a training program should entail in the form of *Circular Letter 6-2012: Guidelines on Approval of Training Programmes and Licensing of Microinsurance Agents*[46]. It states that training course must be a minimum of three days and must be conducted by "competent resource speakers knowledgeable of the subject". The training course must "substantially include" the following:

- "The basic concepts, importance and scientific foundation of life/non-life insurance
- Product types
- Individual vs. group insurance
- Special coverage/riders
- Standard policy provisions
- Obligations of insurance companies and agents
    - Market conduct
    - Claims settlement
    - Revocation of licence"

After completion of the training course, the microinsurance agent is issued with a Certificate of Completion of the microinsurance program, which must then be submitted with the application for a microinsurance agent licence. The president of the insurance company and the trainer must jointly submit a list of those who underwent the training and passed the examination, the resource speakers, the venue and the dates of the training course within five working days after the course was held.

In addition to the core intermediation recommendations, we recommend the following:

- **Renewal of agent registration**: We recommend that TIRA does not need to renew agent certificate of registration each year as is implied by S.9.1 of the draft microinsurance regulations, as this may be onerous for TIRA. Rather, this responsibility can be delegated to the insurer, who must provide full details to TIRA.
- **Commission limits**: Retain the current situation of no commission limits. It is advisable that TIRA monitors commission levels in the microinsurance sphere as part of the reporting requirements imposed on insurers and reserves the right to respond, should exploitative practices be exposed.

Furthermore, the framework should account for and accommodate new developments in microinsurance distribution as set out in *Document 5,* including the possibility of thousands of **mobile airtime vendors** being used as microinsurance sales outlets. Consideration is needed of the regulatory implications of such a scenario and whether this is adequately accommodated in the draft microinsurance regulations.

A flexible microinsurance distribution regime will also strengthen the **role of cooperatives** as distribution channels. Cooperatives should be permitted to register as brokers, corporate insurance agents and/or microinsurance agents, with all the provisions proposed for microinsurance intermediation hence applicable to them.

[46] http://www.insurance.gov.ph/_@dmin/upload/reports/CL%2006%20-%202011.pdf

Lastly, the risk of negative market discovery in the embedded product sphere suggests a particular imperative for ensuring **appropriate market conduct** as part of the microinsurance intermediation space.

4. Use stakeholder process to develop product definition of microinsurance

We broadly support the conceptual definition of microinsurance put forth in the draft microinsurance regulations, but recommend that it be broadened even further not to exclude the lower levels of the employed market (in line with the application guidance in the IAIS Application Paper, which cautions against a too narrow definition).

As long as there is no prudential tier for microinsurance, there is no need for a specific income or other cut-off in terms of who may qualify as a microinsurance client. However, the absence of a specific target market definition or specific product parameters may challenge the microinsurance agent definition – how will TIRA know whether an agent sells only microinsurance and hence qualifies for the special dispensation for microinsurance intermediaries?

Hence we recommend that the stakeholder working group/steering committee process be used to arrive at a commonly accepted *working definition* of microinsurance in line with market realities, based on a number of qualitative and potentially quantitative definition parameters. If such a working definition of microinsurance is adopted, we recommend that the need for upfront product-by-product approval be removed from the provisions of the microinsurance regulatory framework, as it creates the scope for an unlevel playing field, plus will push up supervisory costs. Instead, a file and use approach to product approval should be considered.

International learning suggests the following process guidelines for deriving a definition suited to the local context:

Box 9. Process guide for defining microinsurance[47]

Cross-country experience suggests the following steps for consideration when faced with the decision whether or not, and how, to define microinsurance:

Step one: adopt a conceptual definition as point of departure. The commonly accepted conceptual definition of microinsurance is as adopted in the 2007 IAIS-Microinsurance Network Joint Working group Issues Paper, namely "insurance accessible to the low-income market". The IAIS Application Paper confirms that it is advisable not to define who is included in the "low-income market" in monetary terms. Not only may this be of limited benefit to insurers, a means test as filter for who to accept as customers will be impossible to enforce. As an alternative, some countries are starting to ask insurers to define their own microinsurance target group and then define that in in their licence application.

A conceptual definition will be enough if no dedicated regulatory framework is created for microinsurance. It will then serve as a common working definition for insurers, regulators and other stakeholders to understand what they're working towards, without the definition necessarily being "enforced" in any way.

Step two (where relevant): set product parameters. A conceptual definition will not always suffice. When regulatory requirements are to be tailored to microinsurance, further product indicators or

[47] Source: author's inputs to draft of forthcoming Access to Insurance Initiative Toolkit IV on stakeholder activities to implement a microinsurance development roadmap or action plan, in turn drawing on cross-country experience to date as well as the application guidance in the IAIS *Application Paper on Regulation and Supervision Supporting Inclusive Insurance Markets*.

parameters are needed to distinguish it from other classes of policies[48]. One or a combination of two approaches can be followed:

1. **Quantitative product parameters.** The first option is to define a set of quantitative product parameters that set limits for a microinsurance class of policies. This route is typically followed if the decision was made to create a separate prudential tier for microinsurance, i.e. a limited licence for dedicated microinsurers. These parameters should never be randomly chosen. Rather, they must be designed to limit the risk associated with microinsurance provision in order to warrant a proportionate regulatory approach. The Application Paper advises that quantitative limits should be set as broadly as possible so as not to limit innovation and market development.

   Typical quantitative parameters include:

   - Max sum assured or maximum premium limits. Limiting the sum assured ensures helps to limit the risk nature of a microinsurance portfolio, but also helps to ensure that microinsurance is targeted at the lower end of the market, as a limited sum assured will not be attractive to the wealthy.
   - Limiting the types of cover that can classify as microinsurance (some countries, for example, opt to include long-term contractual savings products or multi-peril agricultural insurance on the basis that it's more complex and, hence, best underwritten by traditional insurers).
   - Some opt to restrict microinsurance to first loss policies, excluding indemnity cover on the basis of the high costs associated with loss adjustment. Limiting microinsurance to sum assured/first loss also ensures that all types of microinsurance are underwritten on the same basis, which is an important consideration if the intention is to allow microinsurance as a composite class.
   - Another common parameter is to define a maximum term for microinsurance contracts. As contract term is a major determinant of risk, the rationale is to limit the tail-end the liabilities by specifying that microinsurance contracts may for example be a maximum of one year, renewable. This ensures that all microinsurance policies are of a relatively low risk nature and, along with a first loss condition, that all policies, be they life or non-life, are underwritten on more or less the same basis.

2. **Qualitative indicators.** Instead of, or in addition to quantitative indicators, most jurisdictions that have defined microinsurance so far have opted to define a set of qualitative indicators aimed at ensuring that the products are targeted at the low-income market. Such qualitative indicators can include:

   - Limiting the number or types of exclusions allowed, or placing limits on deductibles or co-payments
   - Requiring insurers to allow a defined grace period for long-standing clients that miss premiums payments (usually with the provision that, if a claim is incurred in the grace period, the outstanding premium may be deducted from the pay-out)
   - Many of the jurisdictions that have developed microinsurance frameworks have stipulated a maximum allowed time (typically five days) for claim payment turnaround after receipt of all necessary claim documentation.
   - Most also have some generic requirement for simplification in the policy document and the language used, sometimes requiring policy documents to be available in the vernacular.

[48] This will typically be the case where the bar is raised in regulation in general (e.g. through moving to the latest solvency standards) to such an extent that it may create disproportionate compliance cost or burden for those seeking to serve the low-income market. It then becomes important to calibrate regulation in way that is proportionate to the nature, scale and complexity of insurance business in the market in order to accommodate market development. This can only be done based on a formal definition adopted in regulation.

Should TIRA, in consultation with stakeholders, decide to pursue a quantitative product definition, we suggest that the following parameters be considered:

- Adopting a **maximum benefit limit for microinsurance products** that is *generously set* based on current market practices, in order to delineate the products that will qualify for the microinsurance intermediation dispensation. It will be important to build in a provision for the limit to be revised, should market realities change, or otherwise to be adjusted from time to time based on inflationary developments.
- As explained above, the primary rationale for limiting the contract term is to reduce prudential risk in order to justify a tailored prudential regulatory regime. As there will be no prudential tier for microinsurance in Tanzania and all microinsurance will be provided by "full" prudentially regulated institutions, there is **no need for a contract term limit**.
- Specifying that all microinsurance products are to be underwritten on a **sum assured basis** and excluding **savings** endowments and investment guarantee products from the definition of microinsurance. These aspects are generally needed for the purpose of limiting prudential risk, which does not apply here. However, we recommend that they be considered to ensure consistency across life and non-life microinsurance so as to allow microinsurance to **cross the demarcation divide** (i.e., so that bundled microinsurance products can be provided by either long-term or general insurers on the premise that all microinsurance, be it life or non-life, is underwritten on the same basis).

  A related recommendation is to clarify the **definition of funeral insurance** and whether it may be allowed across the demarcation divide as part of the microinsurance regulatory considerations, thereby removing the current *ad hoc* allowance for permission to be granted on a case by case application basis.

In addition to the quantitative parameters, we recommend that consideration be given to adopting **qualitative parameters** to ensure **simplicity,** as well as for other "product standard-like" provisions to be decided on by TIRA in consultation with industry. For example:

- We recommend that TIRA uses the stakeholder steering committee process to consider requiring extended **grace periods** for customers that have been paying premiums for a number of years – proportionate to the period of uninterrupted cover – in a way that will not impact negatively on the market.
- We recommend that the proposed three day **limit for claim turnaround time** in the draft microinsurance regulations be reconsidered as part of the stakeholder process. For example, it could be expanded to five days, with application to TIRA to extend to 10 days if necessary, but with clear communication to the client of the expected processing time.
- Include mention of the need for **consumer choice and specific disclosure** of insurance components in the case of insurance that is embedded in another product or conditional on a loan.
- We propose that the principle of **limited exclusions** (as part of the broader emphasis on simplicity) be established in the microinsurance regulations, without specifying what exclusions will be allowed or not. Rather, insurers must commit to clear disclosure of exclusions upfront.

5. Consider explicitly accommodating low-risk as part of a risk-based AML/CFT regime

The last recommendation lies outside of TIRA's jurisdiction, but is an important enough consideration in the microinsurance sphere to create the imperative for TIRA to coordinate with the Ministry of Finance and the Financial Intelligence Unit in this regard. The rationale for a risk-based approach to AML/CFT, the inadvertent insurance access barriers created by the current regime, as well as the arguments for regarding microinsurance as inherently low-risk, were set out in Section 2.2.4. Further details are contained in Appendix 1.

How can provision for the low-risk nature of microinsurance be built into AML/CFT requirements? We recommend that TIRA and other stakeholders consider the following suggestions as well as what intra-governmental coordination would be required to advocate for change:

- Amend the AML Guideline for insurers to allow in-principle for reduced/simplified CDD for low-risk categories of transactions/customers.
- Develop a risk assessment framework to establish whether sum-assured policies with a life, accident or health trigger pose low money laundering or terror financing risk. We expect that all types of policies not listed in the bullets on p.2-3 of the AML Guideline for insurers, 2011 as being high-risk will qualify as low-risk.
- For all types of policies that qualify as low-risk, we recommend that simplified CDD may be applied by insurers when entering into a business relationship with a customer and that the identity of the beneficiary does not need to be established and verified when paying out a claim. Simplified CDD could entail:
    - Obtaining and recording all the information specified in 2.3.2 (a) to (e) of the AML Guideline for insurers, but noting that residential address (bullet (c)) does not need to be verified against an independent source. It may also be necessary to consider alternative ways of verifying identity than through a unique identity number[49] until such time as the planned national identification system[50] is rolled out to the bulk of Tanzanians.
    - Considering alternatives to the need for customers to submit photos with their applications[51]. Where photo identity is not available, insurers can for example be encouraged to take a picture of the person and store it electronically.
- Clarifying under what conditions non face-to-face origination of policies would be allowed and what CDD requirements should apply in such a situation. This should be considered along with the electronic commerce framework.

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[49] Note: where a person has no unique identification number, the Guideline already allows insurers to source a letter from the local government executive to confirm the person's identity. In principle, this reduces the barrier posed by lack of a national identity system. Anecdotal evidence however suggests that the local government executive charges a fee to issue such a letter. Along with the cost of having photos taken, poorer customers may find the payment of the fee for the letter prohibitive.

[50] The National Identification Authority under the Ministry of Home Affairs (http://www.nida.go.tz) in 2012 has started to roll out long-standing plans for a national identity card system in Tanzania.

[51] Anecdotal evidence suggests that this can be a significant cost barrier for clients wishing to access the financial sector in Tanzania.

Appendix 1: International evidence and emerging guidelines for access-friendly implementation of AML/CFT requirements

International research (Bester et al., 2008, drawing on the experience of five developing countries) has shown that anti-money laundering requirements may affect people's ability to open accounts or purchase financial services, as well as the relative incentives for using formal and informal channels. This happens when individuals do not have the necessary documentation to comply with CDD requirements, or find it onerous to fill out the forms and provide all the necessary information. For financial institutions, anti-money laundering requirements may increase the transaction cost of bringing a new customer on board and undermine the relative incentive to service low-value products and, by implication, low-income customers. There are three main ways in which anti-money laundering regulations are relevant to financial inclusion:

- Through the imposition of so-called KYC (know your customer) or CDD (customer due diligence) requirements.
- Through the requirement of customer profiling and monitoring of suspicious transactions.
- Through record-keeping and reporting requirements

Observed mitigating responses. The study found that, despite different starting points, the implementation of AML/CFT controls in the five countries studied (Mexico, Kenya, South Africa, Pakistan and Indonesia) appears to follow a similar development path. A country would set out to comply with the FATF standards by promulgating a law and regulations which are typically based on international templates rather than domestic circumstances (**phase 1**). As the financial supervisor and financial institutions seek to implement these controls, they would come up against capacity constraints and obstacles which either exclude or discourage clients from using formal financial services, or which tend to make it difficult for financial institutions to serve certain categories of clients (**phase 2**). In **phase 3** regulators respond to these pressures by applying two types of adjustments: (1) existing controls are re-calibrated on a risk-sensitive basis, and/or (2) sequencing the implementation of controls across sectors, transactions or entities based on the available resource envelope.

The mitigating responses observed include:

- Requiring limited verification for low-value transactions or for products which limit transaction values to specified thresholds (where attempted transactions exceed these thresholds, full verification is required before further transactions can be processed);
- Allowing in specific cases verification of client information against third party databases accessed independently by the financial institution (this can also facilitate non-face-to-face client acquisition in mobile banking business models);
- Compensating for simplified verification procedures (where national identification infrastructure is deficient) with more extensive client profiling to support monitoring of activity to identify deviations from the profile supplied;
- Reduced or streamlined record-keeping requirements to reduce costs, e.g. permitting records to be kept electronically;
- Allowing longer timelines for overall compliance, for example client re-identification if financial institutions are able to identify and prioritise high-risk client categories.

These are all in line with the flexibility allowed for a risk-based approach under the FATF recommendations and special recommendations.

In the insurance sphere, this has for example entailed:

- In **Colombia**, the norms on anti-money laundering (External Circular 7, 1996, Chapter XI, First Title) exempt insurance related to social security, personal accident insurance, insurance whose beneficiaries are government entities, insurance of legal cases, health and funeral insurance from compliance with CDD requirements. Thus, non life and property microinsurance products are under the money laundering requirements.
- In the **Philippines**, the Insurance Commission through Circular Letter No. 15-2007 which was issued on August 7, 2007, requires less stringent and minimal requirements for KYC in the case of low value insurance products and contracts. Insurers are allowed to conduct direct marketing (telemarketing, selling of insurance products via SMS, mail and publication by print, radio or television) without face-to-face contact with the client for policies with premiums below a certain minimum defined amount. Likewise, individuals subscribing to group policies need not be individually submit KYC requirements. Rather the group, e.g. the employer, can submit a certified list of individual members covered under the policy and shall be responsible for verifying customer identification and keeping records. Where the group representative is an employer that does payroll deductions for the insurance, the employment relationship is regarded as establishing the identity of the customer and his/her legitimate source of income. The insurer is not required to duplicate verification efforts in complying with the CDD requirements where identity was already verified for underwriting purposes. Lastly, under bancassurance arrangements or other instances when insurance is sold to existing financial services customers that have already been subjected to CDD, no additional CDD needs to be conducted for insurance purposes.

Emerging international guidance

Internationally, the implications of AML/CFT for financial inclusion are increasingly acknowledged, with explicit recognition that the FATF recommendations allow for a proportional or risk-based response to supervision. International guidance in this regard is now being developed on two fronts: the FATF itself, and the IAIS:

1. FATF Guidance Paper on Financial Inclusion

In June 2010, the Financial Action Task Force, under the presidency of Mexico, agreed to have the issue of financial inclusion on its agenda and committed to examine potential challenges posed by AML/CFT requirements to achieving financial inclusion. In consultation with a wide number of groups and in close cooperation with the G-20, it developed a Guidance Paper on AML/CFT and Financial Inclusion that was published at the end of June 2011. The paper does *not* seek to lower the FATF standards as set out in the Forty Recommendations and the Nine Special Recommendations. Rather, it provides guidance for the access-friendly implementation thereof in line with the flexibility provided in the standards with regard to money laundering and terrorist financing risk.

The paper acknowledges that financial inclusion is a multi-faceted challenge of which AML/CFT requirements are an important, though by no means the only, aspect. Though "solving the AML/CFT issue is not a magic wand towards fully inclusive financial sectors, [it] would be a milestone towards building an enabling framework. At the same time, one cannot ignore the fact that financial exclusion is a ML/FT risk and that financial inclusion can contribute to a more effective AML/CFT regime" (FATF, 2001:15).

The report goes on to state that (FATF, 2011: 16):

> "Financial inclusion and an effective AML/CFT regime can and should be complementary national policy objectives with mutually supportive policy goals. Accordingly, international AML/CFT Standards have flexibility, enabling jurisdictions to craft effective and appropriate controls taking into account the relevance of expanding access to financial services as well as the diverse levels and types of risks posed by different products and supply channels. The challenge is finding the right level of protection for a particular financial environment."

It recognises that AML/CFT requirements are potentially at odds with financial inclusion objectives for two reasons:

- the target population often do not possess the formal documentation usually considered under AML/CFT requirements
- some of the AML/CFT obligations increase the cost of doing business, which is transferred onto the customers – who are very sensitive to costs.

The Guidance Paper is not binding in any way, but explains how the principle of proportionality could play out and provides examples of how other jurisdictions have approached matters. It stresses that any exemption or differentiated treatment should be based on an appropriate risk assessment. This can be done at a product level (e.g. below certain limits as would be the case in microinsurance) or at the institutional level.

The only type of insurance providers and intermediaries included in the definition of "financial institutions" that are accountable institutions under the FATF recommendations are those doing "underwriting and placement of life insurance and other investment related insurance". No mention is made of asset insurance and it would seem that the definition places particular emphasis on investment-related insurance. Based on this definition, it would be reasonable to argue that microinsurance, if defined as risk-only, low-premium, low-benefit products, would pose low ML/FT risk and will warrant special treatment.

Based on a reading of the Guidance Paper it will however be difficult to justify a blanket exemption for microinsurance unless this is based on a specific and acceptable risk assessment that finds microinsurance to be low-risk for AML/CFT purposes across the board. Rather, it may be feasible to consider simplified customer due diligence (CDD) requirements for microinsurance products/transactions below the limits set in regulation. This could include accepting alternative forms of identification or address verification as well as electronic recording and storage of information:

- The paper does not make any specific judgments regarding microinsurance, but does recognise that life insurance with limited annual premiums pose low ML/FT risk in certain circumstances, and that lower customer due diligence (CDD) measures may be applied to such products. As examples, life insurance products with an annual premium of no more than USD or EURO 1,000 or a single premium of no more than USD or EURO 2,500 are listed.

- The paper (see pp.25-37) does not give outright guidance on what levels countries can employ and how differentiated the CDD requirements may be, but list examples of what other countries have done that is seemingly acceptable from a FATF point of view. The paper emphasises that, despite more lenient CDD requirements, record keeping and monitoring will still be required. This may however be done electronically (p.39).

2. IAIS Application Paper on Regulation and Supervision Supporting Inclusive Insurance Markets

The IAIS ICPs make provision for anti-money laundering in ICP22[52]: Anti-Money Laundering and Combating the Financing of Terrorism. The principle states:

> *"The supervisor requires insurers and intermediaries to take effective measures to combat money laundering and the financing of terrorism. In addition, the supervisor takes effective measures to combat money laundering and the financing of terrorism".*

In the microinsurance sphere, the 2007 IAIS/CGAP Working Group on Microinsurance Issues Paper in the Regulation and Supervision of Microinsurance recognised that the possibility for money laundering in microinsurance is remote. The main reasons why micro-insurance presents low money laundering or financing of terrorism risk are that:

- Microinsurance tends to entail low-premium, low-benefit policies with frequent rather than once-off premiums. There is therefore a mismatch between microinsurance and the "transaction needs" of money launderers.
- The types of risks normally included in microinsurance are not typically targeted for money laundering. The highest risk insurance products are investment-based products or high-value non-life insurance where insurance fraud could be committed to launder funds. A policy that only pays out upon death presents limited money laundering or terrorist financing risk.

As financial service microinsurance is, however, subjected to a country's anti-money laundering regime. If this is done without recognition of its potential low-risk profile, this may increase transaction costs and may create barriers to the take-up of insurance. In particular, obtaining CDD documents such as proof of identity or address from prospective clients may pose a real barrier.

As discussed in Section 2.2.4 in the main text, the IAIS Application Paper elaborates on how insurance supervisors as responsible authorities for AML/CFT in the insurance sphere can apply ICP22 in the context of microinsurance. This guidance is in line with the risk-based approach allowed for under the FATF Recommendations, including the scope for simplified CDD requirements as well as allowing electronic record-keeping.

[52] ICP22 refers to the numbering of the new ICPs currently being finalised by the IAIS. Previously, AML/CFT was dealt with in ICP28.