NATIONAL INSURANCE COMMISSION

SOLVENCY FRAMEWORK – NON-LIFE

Capital resources

1. (1) The capital resources of the insurer comprise the sum of its core capital and its eligible non–core capital, within the meaning of subparagraph (6).

(2) The core capital of the insurer consists of the sum of the capital components specified in subparagraph (3) less the sum of the deductible items specified in subparagraph (4).

(3) The following are the capital components of core capital:

(a) paid up ordinary shares in the insurer, excluding any ordinary shares held by the insurer as treasury shares;

(b) the insurer's contingency reserves;

(c) the insurer's previous years' retained earnings;

(d) the insurer's current year's net earnings (after tax), if not already included in subparagraph (c); and

(e) such other capital components as may be approved by the Commission.

(4) For the purposes of determining core capital, the following items must be deducted from the sum of the capital components listed in subparagraph (3):

(a) if the insurer has an income deficit or negative balance on its income surplus account, that deficit or negative balance;

(b) intangible assets, as specified in paragraph 8;

(c) capitalised research and development costs;

(d) deferred acquisition costs;

(e) deferred tax assets, net of deferred tax liabilities, if any;

(f) the value of investments in, and subordinated loans to, a connected person;

(g) any asset that is subject to a charge or any other encumbrance;

(h) reinsurance receivables older than six months

(i) corporate stationery, such as product manuals; and

(j) amounts due from connected persons.

(k) premium debtors

(5) Subject to paragraphs 5 and 9, the non–core capital of the insurer consists of the sum of the following capital components:

(a) paid up perpetual cumulative and non-cumulative preference shares issued by the insurer, excluding any such shares held by the insurer as treasury shares;

(b) unsecured subordinated debt;

(c) revaluation reserves complying with paragraph 7; and

(d) such other capital components as may be approved by the Commission.

(6) Non-core capital is "eligible" for the purposes of determining the insurer's capital resources only to the extent that it does not exceed the insurer's core capital.

(7) For the purposes of this paragraph, one person (the first person) is connected to another person (the second person) in the following circumstances:

(a) both persons are companies in the same group of companies;

(b) the second person is an company, where:

(i) the first person is a significant owner of the second person; or

(ii) the first person is a director or senior manager of the second person;

(c) the first person is a close family member of:

(i) the second person, where that person is an individual;

(ii) an individual who is a significant owner of the second person; or

(iii) an individual who is a director or senior manager of the second person.

(8) For the purposes of subparagraph (7):

(a) a "significant owner", in relation to a company, means a person who, whether alone or acting together with one or more associates:

(i) holds, whether legally or equitably, 10% or more of the issued shares of the company, or its holding company;

(ii) has the power, directly or indirectly, to exercise, or control the exercise of, 10% or more of the voting rights in company, or its holding company; or

(iii) has the power to appoint or remove one or more directors of the company or one or more members of a committee of directors.

(b) a "close family member", in relation to an individual, means the individual's:

(i) spouse;

(ii) children, including adopted children and step children;

(iii) parents, including step parents;

(iv) brothers or sisters, including step brothers or sisters; or

(v) grandchildren.

Minimum requirement related to capital components

2. (1) The insurer shall ensure that the total value of the capital components listed in paragraph 1(3) and paragraph 1(5) equals or exceeds Fifteen million Ghana Cedis (GHS 15,000,000).

(2) For the purposes of subparagraph (1), no account shall be taken of the deductions specified in section 1(4) or whether or not non-core capital is eligible under 1(6).

Available capital resources

3. (1) The available capital resources of the insurer shall be calculated as follows:

$$ACR = CR - AD(S) - WL(S)$$

where:

(a) "ACR" represents the available capital resources

(b) "CR" = capital resources represents the insurer's capital resources calculated in accordance with paragraph 1;

(c) "AD(S)" represents the total amount of the discount to be applied to the insurer's assets, calculated in accordance with subparagraph (2); and

(d) "WL(S)" represents the total value of the insurer's liabilities as shown on the balance sheet, increased by applying the weightings to its technical provisions calculated in accordance with subparagraph (3).

(2) For the purposes of subparagraph (1)(c), the following discounts shall be applied to the value of the assets as shown in the balance sheet of the insurer:

	Asset	Discount to be Applied
1.	Government of Ghana securities	0%
2.	Bank of Ghana securities	0%
3.	Cash and term deposits held at a licensed bank	5%
4.	Corporate debt	5%
5.	Securities listed on the Ghana Stock Exchange (excluding any securities that are corporate debt)	15%

6.	Any securities not included in paragraphs 1 to 5	30%
7.	Equity backed mutual funds	10%
8.	Money market mutual funds	5%
9.	Land and buildings held as an investment	30%
10.	Land and buildings occupied by the insurer for its own use	50%
11.	Plant, equipment and furniture	50%
12.	Motor vehicles	50%
13.	ICT	5%
14.	Amount due from reinsurers less than 6 months old	10%
15.	Any asset, other than an asset listed in paragraphs 1 to 15 above, except assets required to be deducted from core capital under paragraph 1(4)	50%

(3) For the purposes of subparagraph (1)(d), the value of the insurer's technical provisions as shown on the balance sheet shall be increased by applying the following weightings:

	Provision	Weighting to be Applied
1.	Total unearned premium provision	5%
2.	Unexpired risk	0%
3.	Provision for outstanding claims:	
	Fire, theft and property	10%
	Motor	25%
	Personal accident, health and medical	12%
	Marine and aviation	5%
	Liability	15%
	Financial loss	25%
	Engineering	5%
	Other short term products	25%
4.	Total IBNR (incurred but not reported) provision	25%
5.	Other provisions	25%

(4) In this paragraph:

"financial loss insurance" means a contract of insurance against the risk of financial and other losses to the person insured:

(a) arising from the failure of debtors to pay their debts when due, whether by reason of their insolvency or otherwise (credit insurance);

(b) arising from the person insured having to perform contracts of guarantee entered by them, including performance bonds, fidelity bonds, administration bonds and other similar contracts of guarantee (suretyship);

(c) attributable to the person insured incurring legal expenses, including the cost of litigation (legal expenses insurance); or

(d) attributable to the person insured incurring other unforeseen expenses (not falling within any other class of short term insurance), including fidelity and kidnap and ransom insurance (miscellaneous financial loss insurance);

"licensed bank" means a deposit taking financial institution licensed by the Bank of Ghana

"security" means:

(a) a share in a company;

(b) a debt obligation of any kind; or

(c) an option, warrant or right to acquire a share or debt obligation.

Limitation in relation to cash and term deposits held at licensed financial institutions

3A An insurer shall not hold more than 30% of its total cash and term deposits with any one licensed financial institution at any point in time.

Valuation of shares

4. For the purposes of determining the capital resources of the insurer

(a) the value of any ordinary, non–cumulative preference or cumulative preference shares in the insurer is the total of:

(i) monies paid and received by the insurer, and

(ii) the value of other consideration provided to the insurer

for the particular category of shares that are paid up.

(b) a share that is partly paid qualifies for inclusion in the capital resources of the insurer, only to the extent that the share is paid.

Provisions in relation to ordinary and preference shares

5. (1) A share shall not be regarded as an ordinary share for the purposes of calculating the core capital of the insurer if the share:

(a) is redeemable;

(b) gives the holder any preferential or pre–determined rights to a distribution; or

(c) does not carry full voting rights.

(2) A share does not qualify for inclusion in the non-core capital of the insurer as a perpetual cumulative or non–cumulative preference share unless:

(a) the share does not have a stated maturity date;

(b) the share does not provide for any form of payment to the holder other than by way of a distribution of profits in the form of a dividend or interest;

(c) the insurer has the right not to pay a dividend or interest on the share in any year;

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(d) the non–payment of a dividend or interest does not result in any restrictions on the insurer, other than in relation to paying dividends on ordinary shares or acquiring treasury shares;

(e) the share is not redeemable or is redeemable only

(i) at the option of the insurer; and

(ii) after no less than four weeks written notice of the intention to redeem has been given by the insurer to the Commission, or such shorter period of notice as the Commission agrees in writing to accept;

(f) rights to the repayment of principal and the payment of dividends and interest are subordinated to the claims of all policyholders of the insurer (but not necessarily to the claims of other creditors expressed to rank equally with or behind the holder of the preference share) and the holder of the share is not entitled to any contractual right of set–off; and

(g) there is no right to early repayment of the principal, dividend or interest on the occurrence of any event, including a default.

(3) The matters specified in subparagraph (2) shall be clearly and expressly incorporated into the issue documentation as terms of issue.

Unsecured subordinated debt

6. (1) An instrument qualifies for inclusion in non–core capital as unsecured subordinated debt if it satisfies the following criteria:

(a) the instrument is governed by and construed in accordance with the law of Ghana and enforcement of the instrument, and the determination of any disputes in relation to the instrument, are subject to the exclusive jurisdiction of the Ghana courts;

(b) the instrument is either perpetual, with no maturity date, or it has an original fixed term to maturity of five years or more;

(c) the debt is unsecured;

(d) the instrument provides that:

(i) interest payments on the debt are conditional on the insurer being solvent at the time of payment and no payment of interest may be made unless the insurer is solvent immediately afterwards; and

(ii) even where subparagraph (i) does not apply, the insurer may defer the payment of interest;

(e) the instrument contains the following terms:

(i) any failure of the insurer to make any interest payments does not constitute a default event; and

(ii) a higher interest rate is not payable if interest payments are not made on time;

(f) the instrument shall not include any provision that triggers the early repayment of the debt, or any part of the debt, on default, or on any specified event, circumstance or omission, other than the liquidation of the insurer;

(g) the instrument provides that the rights to the repayment of principal and the payment of interest are subordinated to the claims of all policyholders and to the claims of all unsubordinated creditors, and the holder of the debt instrument is not entitled to any contractual right of set–off; and

(h) the remedy for default in the event of non-payment of principal or interest is limited to making application to the court for the liquidation of the insurer or claiming as a subordinated creditor in the liquidation of the insurer.

(2) An instrument qualifying as unsecured subordinated debt may continue to accrue interest on any unpaid amounts, including interest on deferred interest payments.

(3) The insurer shall not agree to amend an instrument specified in subparagraph (2) unless it has given the Commission not less than four weeks prior written notice of its intention to do so, whether or not the insurer intends to continue to rely on the instrument as a capital component of non–core capital.

(4) Where an instrument has a maturity date, the amount of the instrument that is eligible for inclusion in non–core capital is reduced over the last four years to maturity by 20% per annum, as follows:

Years to Maturity	Amount eligible for inclusion in core capital
More than 4 years	100%
More than 3 years but 4 years or less	80%
More than 2 years but 3 years or less	60%
More than 1 year but 2 years or less	40%
1 year or less	20%

Revaluation reserve

7. (1) For the purposes of paragraph 1(5)(c), up to 75% of the revaluation reserve of each of the following may be included in the non–core capital of the insurer:

(a) land and buildings owned by the insurer; and

(b) investments, other than those excluded by paragraph 1(4).

(2) A revaluation shall not be included in the revaluation reserve unless it is prudent and undertaken in accordance with IFRS.

(3) A revaluation surplus may not be capitalised without the prior written consent of the Commission.

(4) For the purposes of calculating non-core capital under these licensing conditions, the revaluation reserve shall be included as a reserve on the balance sheet and not on the income statement.

Intangible assets

8. The following are considered as intangible assets for the purposes of paragraph 1(4)(b):

(a) goodwill, to the extent that it has not otherwise been deducted; and

(b) any other assets shown on the balance sheet as intangible assets.

Requirements and limitations in relation to capital resources

9. (1) At least 50% of the core capital of the insurer must comprise ordinary shares, previous years' retained earnings and contingency reserves.

(2) Paid up perpetual cumulative and non-cumulative preference shares must not comprise more than 25% of the insurer's capital resources, and any such excess shall not be included in the calculation of the insurer's capital resources.

(3) Unsecured subordinated debt must not comprise more than 25% of the insurer's capital resources and any such excess shall not be included in the calculation of the insurer's capital resources.

(4) Revaluation reserves must not comprise more than 25% of the insurer's capital resources and any such excess shall not be included in the calculation of the insurer's capital resources.

Capital Adequacy Requirements

Capital resources to exceed solvency capital requirement

10. The insurer shall ensure that, at all times, its capital resources exceed the greater of:

(a) its solvency capital requirement calculated in accordance with paragraph 12; or

(b) such solvency capital requirement as may be directed by the Commission in a directive issued under section 69(2) of the Act.

Minimum solvency capital requirement

11. (1) The minimum solvency capital requirement applicable to the insurer is Three million Ghana Cedis (GHS3,000,000).

(2) The minimum solvency capital requirement as specified in sub-paragraph (1) above, shall be reviewed annually to take account of the changes in the Consumer Price Index as published by the Ghana Statistical Service. The amount shall be adjusted by the annual percentage change in the Consumer Price Index and rounded up to a multiple of a hundred thousand Ghana cedis (GHS 100 000).

Solvency capital requirement

12. The solvency capital requirement of the insurer is the greatest of:

(a) the minimum solvency requirement specified in paragraph 11;

(b) the net written premium based solvency capital requirement, calculated in accordance with paragraph 13; and

(c) the management expense based solvency capital requirement, calculated in accordance with paragraph 14.

Net written premium based solvency requirement

13. (1) The net written premium based solvency requirement of the insurer shall be calculated as follows:

NWPSR = (NDWP +NIRP) x 25%

where:

(a) "NWPSR" represents the insurer's net written premium solvency requirement; and

(b) "NDWP" represents the insurer's net written premiums in respect of direct business for the previous year calculated in accordance with subparagraph (2); and

(c) "NIRP" represents the insurer's net inwards reinsurance premiums for the previous financial year calculated in accordance with subparagraph (2).

(2) The net written premium (NWP) of the insurer for the previous year shall be calculated as follows:

NWP = GWP — CRP

(a) "GWP" represents the gross written premiums in respect of the insurer's business in the previous financial year; and

(b) CRP represents the gross premiums ceded to reinsurers in the previous financial year.

Management expense based solvency requirement

14. The management expense based solvency requirement of the insurer shall be calculated as follows:

MESR = TME x 25%

where:

(a) "MESR" represents the insurer's management expense based solvency requirement; and

(b) "TME" means the total pre-tax management expenses, as shown in the profit. loss account for the previous financial year.

Solvency control levels

15. (1) For the purposes of this paragraph, the capital adequacy ratio of the insurer is calculated in accordance with the following formula:

$$CAR = \frac{ACR}{SCR} \times 100$$

where:

(a) "CAR" represents the insurer's capital adequacy ratio expressed as a percentage;

(b) "ACR" represents the insurer's capital resources calculated in accordance with paragraph 3; and

(c) "SCR" represents the insurer's solvency capital requirement calculated in accordance with paragraph 12.

(2) Without limiting the solvency and reporting requirements specified in the Act and the Code, the insurer shall monitor its capital adequacy ratio against the Commission's capital adequacy control levels as specified in paragraph (3) and shall immediately notify the Commission in writing if its capital adequacy ratio changes:

(a) from Level 0 (the "prescribed capital requirement" or "PCR") to Level 1, Level 2 (the "minimum capital requirement" or "MCR") or Level 3;

(b) from Level 1 to Level 2 or Level 3; or

(c) from Level 2 to Level 3.

(3) The Commission's capital adequacy control levels are as follows:

Capital Adequacy Control Level	CAR	Supervisory implication	Supervisory Action
Level 0 (PCR)	CAR >150%	No significant problems	Monitor
Level 1	115%< CAR <150%	Early warning	Strong recommendations for improvement in risk areas.
Level 2 (MCR)	100% < CAR <125%	Serious risk of insolvency	Enforcement Action aimed at resuscitation
Level 3	CAR < 100%	Entity not viable	Enforcement Action leading to liquidation

(4) The supervisory implications and associated supervisory actions for each capital adequacy control level specified in subparagraph (3) do not limit the enforcement or other supervisory action that may be taken by the Commission whether at that control level or otherwise.

Investments

Investment strategy, policies, procedures and controls

16. (1) The insurer shall establish and maintain

(a) an investment strategy and such investment policies as the board considers appropriate for the nature, size and complexity of its business; and

(b) procedures and controls that are sufficient to ensure that the investment strategy and policies are effectively implemented.

(2) Without limiting subparagraph (1), the investment strategy and policies of the insurer shall address

(a) the risk profile of the insurer;

(b) mixture and diversification of investment by type, including the long-term asset mix;

(c) the establishment of limits for the allocation of assets by geographical area, markets, sectors, counterparties and currency;

(d) the extent to which the holding of some types of assets is restricted or disallowed, for example illiquid or volatile assets; and

(e) clear accountability for all asset transactions and associated risks.

Responsibilities of board

17. The board of the insurer shall

(a) approve the investment strategy and the significant investment policies, and any subsequent changes to the strategy or significant policies, and review them on at least an annual basis; and

(b) ensure that a management structure, including appropriate procedures and controls, is put in place to effectively execute and monitor the investment strategy and policies.

Risk management and internal controls

18. (1) The board of the insurer shall approve the risk management strategy, policies, procedures and controls of the insurer. The risk management strategy, policies, procedures and controls of the insurer shall cover the risks associated with investment activities that may affect the insurer's liabilities or its ability to meet its solvency capital requirement.

(2) The internal controls established and maintained by the insurer shall cover the insurer's investment strategy and policies and shall ensure that the investment strategy, policies, systems and controls are properly documented and subject to adequate oversight.

Further provisions concerning investments

19. (1) The board of the insurer shall ensure that

(a) effective policies, systems and controls are established and maintained to enable the monitoring and managing of the insurer's asset/liability position to ensure that the insurer's investment activities and assets positions are appropriate for its risk profile; and

(b) contingency plans are put in place to mitigate the effect of a deterioration in investments.

Investments outside Ghana

20. (1) The insurer may invest any of its surplus assets outside Ghana.

(2) For the purposes of subparagraph (1), "surplus assets" are those assets that are not required to satisfy a capital adequacy ratio of 150%.

Reserves

Contingency reserves

21. (1) The insurer shall establish and maintain a contingency reserve as an equity account in accordance with this paragraph and shall credit to the contingency reserve, each year, an amount equal to the greater of:

(a) 3% of gross premiums; or

(b) 20% of the insurer's net profits.

(2) The insurer shall permit its contingency reserve to accumulate until it reaches an amount equal to the greater of:

(a) the capital that the insurer is required to maintain under the Act; or

(b) 50% of its net premiums.

(3) The contingency reserve shall not be released without the prior written approval of the Commission.

Assets and Liabilities

Valuation of assets

22. (1) Subject to subparagraph (2), the insurer shall ensure that the value of its assets is determined in accordance with IFRS.

(2) Notwithstanding subparagraph (1), the assets of the insurer shall not be taken to be more than the market value of those assets.

Calculation and valuation of liabilities

23. The insurer shall ensure that its liabilities:

(a) are calculated and valued on the basis required by IFRS;

(b) are monitored and calculated on a continuous basis; and

(c) include all liabilities arising out of its insurance contracts.

Technical provisions

24. (1) The technical provisions to be maintained by the insurer shall include the following:

(a) a provision for unearned premiums;

(b) a provision for unexpired risks;

(c) a provision for outstanding claims

(d) a provisions for claims that have been incurred but not reported; and

(e) such other provisions as it considers appropriate.

(2) Subject to subparagraphs (3) and (4), the insurer shall calculate its unearned premiums provision using the 365ths method.

(3) If the insurer considers that there is an actuarial basis for using a different methodology than the 365ths method to calculate its unearned premium provision, or any part of that provision, it may provide the Commission with written notice of its intention to use the different methodology, specifying the actuarial basis for using the alternative methodology.

(4) The insurer may use the alternative methodology if, having received a notice under subparagraph (3), the Commission issues a written no objection notice to the insurer.

(5) The provision for unexpired risks shall be calculated on a case-by-case basis by the actuarial function in circumstances when a provision for unearned premiums, using the 365ths method, results in an insufficient quantum of Premium Reserves.

(6) The provision for claims outstanding shall be calculated using the open claims file methodology.

(7) For the purposes of subparagraph (6), the open claims file methodology is a methodology which provides for the value of each outstanding claim to be calculated separately, the total provision for outstanding claims for a period being calculated by totalling the estimated value of all individual claims outstanding at the end of the period.

(8) The provision for claims that have been incurred but not reported shall be calculated using the Inflation Adjusted Chain Ladder Method, the Bornhuetter-Furgusson method, the Average Cost method or a combination thereof.

Financial Condition Report

25. (1) An insurer shall submit to the Commission, a Financial Condition Report prepared by its appointed actuary. The Financial Condition Report shall include;

(a) an assessment of the insurer's compliance with the prudential requirements specified by the Commission and any directives imposed by the Commission,;

(b) an assessment of the insurer's Risk Management systems and Internal Controls and Investment Strategy;

(c) a detailed evaluation of the insurer's financial condition;

(d) a valuation of the insurer's policy liabilities;

(e) a professional opinion on the matters specified in paragraphs (a) to (c).

(2) The Financial Condition Report shall be

(a) approved by the board of the insurer and signed by the appointed actuary before submission to the Commission; and

(b) submitted to the Commission within 4 months of the end of the financial year.

Effective date and transitional arrangements

26. (1) Subject to subparagraph (2), this framework shall take effect from 1st January 2015.

(2) Despite subparagraph (1),

(a) the assessment and analysis of the 2015 annual returns of all insurers and reinsurers shall be based on this framework.

(b) all insurance and reinsurance companies are required to comply with the minimum capital requirement of fifteen million cedis specified in paragraph 2 by 31st December, 2015.

(c) all insurance and reinsurance companies are required to comply with the target Capital Adequacy Ratio of at least 130% by 31st December, 2015, 140% by 30th June, 2016 and 150% by 31st December, 2016.

(d) each insurance and reinsurance company is required to have investment strategy and policies approved by its board of directors in compliance with paragraph 16 and 17 by 31st December, 2015.

(e) each insurance and reinsurance company is required to have Risk Management strategy, policies, procedures and controls approved by its board of directors in compliance with paragraph 18 by 31st December, 2015.

(f) all non-life and reinsurance companies are required to calculate their technical provisions using the methodologies prescribed in paragraph 24 with effect from 31st December, 2015.

(g) all insurance and reinsurance companies are required to submit their first annual Financial Condition Reports on or before 30th April, 2016.