OUTSOURCING REGULATION FOR INSURANCE AND REINSURANCE COMPANIES AND INSURANCE SERVICE PROVIDERS

لاعحة الإسناد الخاصة بشركات التأمين وإعادة التأمين وأصحاب المهن الحرة
# TABLE OF CONTENTS

I. Part 1: Introduction

II. Part 2: Overarching Rules

III. Part 3: Specific Rules

- Section A: Contract Wording
- Section B: Policyholders’ rights
- Section C: Requirements for Material Outsourcing Arrangements
- Section D: Requirements for Overseas Outsourcing Arrangements
- Section E: Control and Monitoring

Appendix: Examples of Material and Non-Material Outsourcing Arrangements
Part 1: Introduction

Purpose

1. This regulation enumerates SAMA’s requirements for Insurance/Reinsurance Companies and Insurance Services Providers that have entered or are intending to enter Outsourcing arrangements. This regulation is also applicable to any Outsourcing arrangements whether with a domestic or foreign Third Party.

2. The objective of this regulation is to set controls to organize the relationship between Insurance/Reinsurance Companies and Insurance Services Providers and Third Parties in order to ensure that this relationship does not affect the compliance with laws and regulations governing the Saudi Insurance Market, and that Outsourcing Arrangements do not hinder Policyholders’ rights.

3. This regulation is applicable to all Outsourcing Arrangements entered into by licensed Insurance/ Reinsurance Companies and Insurance Service Providers under the Law on Supervision of Cooperative Insurance Companies promulgated by Royal Decree M/32 dated 2/6/1424 H including all their branches and subsidiaries licensed in Saudi Arabia (hereinafter referred exclusively as “Insurers and Insurance Services Providers”).
4. This regulation should be read in conjunction with the Law on Supervision of Cooperative Insurance Companies and its Implementing Regulations, as well as SAMA’s Market Code of Conduct and any other regulation issued by SAMA.

5. “Outsourcing” refers to an Arrangement under which a Third Party (Service Provider) undertakes to provide a service to Insurance Companies and Service Providers previously carried out by itself or a new service to be offered by it. Dealing with Reinsurance Companies and Insurance/Reinsurance Brokers, Agents, Insurance Claims Settlement Specialists (i.e., Third Party Administrators), Risk Surveyors, Loss Assessors, Loss Adjusters, Actuaries, and Insurance Consultants, is not considered an Outsourcing Arrangement for the purpose of this regulation. In addition dealing with Service Providers that the company is compelled to work with, according to the applicable regulations, is outside the scope of this regulation.

6. “Insurers and Insurance Service Providers” refers to any Insurance/Reinsurance Company and Insurance Service Provider licensed by SAMA under the Law on Supervision of Cooperative Insurance Companies and its Implementing Regulations.

7. “Third Party”, refers to any Service Provider to whom an activity is

Definitions

5.1 Outsourcing” refers to an Arrangement under which a Third Party (Service Provider) undertakes to provide a service to Insurance Companies and Service Providers previously carried out by itself or a new service to be offered by it. Dealing with Reinsurance Companies and Insurance/Reinsurance Brokers, Agents, Insurance Claims Settlement Specialists (i.e., Third Party Administrators), Risk Surveyors, Loss Assessors, Loss Adjusters, Actuaries, and Insurance Consultants, is not considered an Outsourcing Arrangement for the purpose of this regulation. In addition dealing with Service Providers that the company is compelled to work with, according to the applicable regulations, is outside the scope of this regulation.

6. “Insurers and Insurance Service Providers” refers to any Insurance/Reinsurance Company and Insurance Service Provider licensed by SAMA under the Law on Supervision of Cooperative Insurance Companies and its Implementing Regulations.

7. “Third Party”, refers to any Service Provider to whom an activity is
outsourced. A Third Party can be a member of the group to which the institution belongs, related company, or an unrelated Third Party, whether located in Saudi Arabia or elsewhere.

8. "Board" or "Board of Directors" refers to:
   a) The Board of Directors, in the case of a company incorporated in Saudi Arabia.
   b) A local board, a management committee or a body beyond local management empowered with oversight and supervision responsibilities for the company’s operations in Saudi Arabia, in the case of an institution incorporated outside Saudi Arabia.

9. "Material Functions" refer to underwriting, claims handling, investment, risk management, finance, internal audit, compliance, and primary decision-making processes such as policy sales and renewals (for a typical list please refer to the Appendix).

10. "Material Outsourcing" refers to an Outsourcing Arrangement which, if disrupted, has the potential to significantly impact an institution’s business operations, reputation or profitability (for a typical list please refer to the Appendix).

11. "Policyholder Data" refers to any information or document relating to the affairs or policy of a Policyholder (whether kept physically or electronically and whether held by Insurers and Insurance Service Providers themselves or by a Third Party).
12. "Financial Data" refers to all financial data including books of policies, general and sub-ledger, financial statements and various financial data other than Policyholder Data.

13. "Overseas" refers to locations outside of Saudi Arabia in which entities are subject to other jurisdictions’ laws and regulations.

Compliance Requirement

14. Insurers and Insurance Service Providers should establish appropriate internal controls and procedures to ensure and monitor compliance with this regulation.

15. Insurers and Insurance Service Providers should maintain adequate records to demonstrate compliance with this regulation, including Outsourcing contracts and an Outsourcing policy.

16. Non-Compliance with the requirements set forth in this regulation will be deemed a breach of the Law on Supervision of Cooperative Insurance Companies and its Implementing Regulations and licensing conditions and subject violating Insurers and Insurance Services Providers in case of non-compliance to enforcement action.

Part 2: Overarching Rules

17. Insurers and Insurance Services Providers should ensure that Outsourcing does not reduce the protection available to policyholders and is not used as a way of avoiding compliance with regulatory requirements.

18. Insurers and Services Providers have to comply with the following:

مطالبات الالتزام

14. يجب على شركات التأمين وأصحاب المهن الحرة وضع الضوابط والإجراءات الداخلية الملائمة لضمان تحقيق الالتزام بهذه اللائحة.

15. يجب على شركات التأمين وأصحاب المهن الحرة الاحتفاظ بسجلات كافية توضح الالتزام بهذه اللائحة بما في ذلك الاحتفاظ بعقود الإسناد وسياسة الإسناد.

16. يعد عدم الالتزام بالمتطلبات الواردة في هذه اللائحة خلافاً لنظام مراقبة شركات التأمين التعاوني ولاقائه التنفيذية وشروط الترخيص ويجعل شركات التأمين وأصحاب المهن الحرة عند عدم التزامها عرضاً لاتخاذ إجراء نظامي ضدها.

الجزء الثاني: أحكام عامة

17. يجب ألا يقل إسناد المهن إلى جهات خارجية من امكانيات المتوفرة لحامل وثائق التأمين ولا يستخدم طريقة لتجنب الالتزام بالمتطلبات النظامية.

18. يجب أن تلتزم شركات التأمين وأصحاب المهن الحرة بالآتي:
a) Develop and put in place an Outsourcing policy duly approved by their Board of Directors within 180 days from the date of issuance of this regulation. If such a policy already exists, Insurers and Insurance Services Providers should ensure that it is in compliance with this regulation and provide a copy of the policy to SAMA within 120 days from the date of issuance of this regulation for licensed companies. For unlicensed companies, the Outsourcing policy should be part of the licensing requirements.

b) All new Outsourcing Arrangements as well as renewal of existing arrangements must be made in accordance with this regulation.

c) Review their existing Outsourcing contracts against this regulation and seek post facto no objection for contracts assessed as Material Outsourcing within 120 days from the date of issuance of this regulation.

d) Submit details of all existing Material Outsourcing Arrangements to SAMA within 120 days from the date of issuance of this regulation.

e) Notify SAMA in the event of any legal or regulatory violation in their Outsourcing Arrangements.

f) Rectify and remove any deficiencies from the existing contracts within 365 days from the date of issuance of this regulation or on renewal date of the contracts, whichever comes first, provided that the renewal is no sooner than 120 days from the date of issuance of this regulation.
Accountability

19. The Board of Directors and management of Insurers and Insurance Service Providers retain the ultimate responsibility for all their Outsourcing Arrangements, including compliance with all relevant laws, regulations and instructions.

Obligations

20. The Board of Directors and management of Insurers and Insurance Service Providers should ensure that appropriate policies are developed and implemented within the proper risk management framework for Outsourcing arrangements.

21. Insurers and Insurance Service Providers should make sure that the process of entering into Outsourcing contracts is free from any conflict of interest.

22. The Outsourcing policy should provide for the development, implementation and update of detailed procedures for managing Outsourcing Arrangements. As a minimum the procedures should include the following:

   a) Roles and responsibilities of the Board of Directors and management.

   b) Risk identification criteria and risk mitigation measures.

   c) Systems for monitoring and controlling Outsourcing activities.

   d) Eligibility and qualification criteria for selection of the Third Party.

   e) All requirements set forth in this regulation.

23. Insurers’ and Insurance Service Providers’ management and Board of Directors should ensure that all existing and
proposed Outsourcing Arrangements have been subject to a comprehensive risk review process at inception and renewal. This process should evaluate key risk factors namely operational, legal, reputation and regulatory risks and risk mitigation strategies for each Outsourcing proposal.

24. Before entering into an Outsourcing Arrangement, Insurers and Insurance Service Providers are required to analyze the business case and suitability of the Third Party by conducting due diligence on the following:

a) The Third Party’s financial, technical and professional background and capabilities.

b) Impact of the Outsourcing on the overall risk profile of Insurers and Insurance Service Providers.

c) Impact of the Outsourcing on systems and controls within Insurers and Insurance Service Providers.

25. The level and extent of due diligence will depend on the nature of the Outsourcing Arrangement, i.e., Material Outsourcing will entail a more comprehensive exercise. Insurers and Insurance Service Providers must establish a method for assessing the Third Party on a yearly basis and retain the necessary expertise to supervise their outsourced functions effectively.

26. Insurers and Insurance Service Providers are required to provide the Third Party with a copy of this regulation, and a copy of their Outsourcing policy.
Part 3: Specific Rules

Section A: Contract Wording

27. Insurers and Insurance Service Providers should document their Outsourcing Arrangements through a written, legally binding contractual agreement compliant with all applicable regulatory requirements. As a minimum, the contract should incorporate the following:

a) Contracted parties.

b) Scope of the contract.

c) Service levels and performance requirements.

d) Audit and monitoring procedures.

e) Business continuity plans.

f) Default arrangements.

g) Pricing and fee structure.

h) Dispute resolution mechanisms.

i) Liability and indemnity.

j) Contract Period.

k) Confidentiality, privacy and security of information.

l) Any contractual obligations of the Third Party in case of subcontracting all or part of the Outsourcing Arrangement.

m) Reporting and escalation mechanisms.

n) Commitment from the Third Party to report to Insurers and Insurance Service Providers any control weaknesses or adverse developments in its financial

لا يجب أن توافق شركات التأمين وأصحاب المهن المهنة ترتيباتها لإسناد المهام بموجب اتفاقية تعاقبية مكتوبة ملزمة نظراً ومنظمة مع جميع المتطلبات النظامية ذات العلاقة. وأن يتضمن

العقد حلاً أدنى الآتي:

أ) أطراف العقد.

ب) نطاق العقد.

ج) مستويات الخدمة ومتطلبات الأداء.

د) إجراءات المراجعة والمراقبة.

ه) خطط استمرارية العمل.

و) ترتيبات معالجة التقصير في الأداء.

ز) التسعار وتكاليف الرسوم.

ح) آليات تسوية المنازعات.

ط) المسؤولية والتعويض.

ي) مدة العقد.

ك) سرية وخصوصية وأمن المعلومات.

ل) أي التزامات تعاقبية على الطرف الثالث في حال التعقد من الباطن لكامل ترتيب إسناد المهام أو جزء منه.

م) آليات رفع التقارير والتصعيد.

ن) التزام الطرف الثالث بتلبيش شركات التأمين وأصحاب المهن الطبية عن أي ضعف في المراقبة أو أي تطورات سلبية في أدائه.
28. The contract should allow for renewal, renegotiation, default termination and early exit so as to enable Insurers and Insurance Service Providers to retain control over the outsourced activity. In addition, SAMA has the right to ask the Insurers and Insurance Service Providers to review, modify, or terminate the Outsourcing contract, in case of non-compliance with This Regulation and other related regulations.

29. Furthermore, the contract should incorporate a clause for providing SAMA access to documentation and accounting records in relation to the Outsourcing. The contract should ensure that SAMA, the Insurers’ and the Insurance Service Providers’ internal and external auditors or any other duly authorized representatives from the Insurance Company or Insurance Service Provider have access to the premises, data, documents, process, etc. of the Third Party.

30. The contract should indicate that the Saudi Arabian judicial authorities are the relevant authorities for the settlement of disputes arising from the enactment or the explanation of the Outsourcing contract. Any exception to the requirements of this article is subject to SAMA’s prior approval.
Section B: Policyholders’ rights

31. Insurers and Insurance Service Providers should institute a defined internal mechanism for receipt and resolution of any policyholder complaints regarding their outsourced services while the Outsourcing contract should include appropriate clauses to ensure that the Third Party will facilitate the resolution mechanism.

32. Insurers and Insurance Service Providers should establish proper safeguards to protect the integrity and confidentiality of Policyholder Data and Financial Data including but not limited to:

a) Obtaining non-disclosure agreements.

b) Providing Policyholder Data and Financial Data to a Third Party on a need-to-know basis only.

c) Requiring the Third Party to segregate their data from other data pools.

33. Upon termination of the Outsourcing Arrangement and contract for whatever reason, Insurers and Insurance Service Providers should ensure that all Data of the outsourced activity is either retrieved from the Third Party or destroyed, As long as there are no regulatory requirements to keep such records. Any exceptions should be reported to SAMA.

34. In addition to This Regulations, Insurers and Insurance Service Providers should refer to SAMA’s Market Code of Conduct Regulation for data confidentiality and
security.

Section C: Requirements for Material Outsourcing Arrangements

35. Insurers and Insurance Service Providers should seek SAMA’s written no objection prior to undertaking any Material Outsourcing.

36. Material Functions should be assessed on a case-by-case basis and approved by SAMA before being outsourced.

37. Proposals for all Material Outsourcing should be submitted to SAMA in writing, at least 30 working days for a domestic Third Party and 60 working days for a foreign Third Party prior to the proposed date of commencement of the Outsourcing Arrangement.

38. The Board of Directors should ensure that senior management has assessed each proposed Outsourcing function qualitatively and quantitatively and classified it as material or non-material prior to submitting to SAMA.

39. Insurers and Insurance Service Providers may seek SAMA’s guidance if uncertain whether or not an existing or new arrangement is considered material or non-material.

40. For Material Outsourcing, the contract should include provisions that prohibit subcontracting without the prior approval of Insurers, Insurance Service Providers and SAMA.

41. Insurers and Insurance Service Providers should immediately report to SAMA any breach of legal and/ or regulatory
requirements or any developments relating to a Material Outsourcing Arrangement. They should also report measures proposed and taken to ensure continuity of service.

Section D: Requirements for Overseas Outsourcing Arrangements

42. For any proposed Outsourcing Arrangements involving transmission, processing and retention of Policyholder Data and/or Financial Data and/or Material Outsourcing to a Third Party located overseas (including head offices and/or regional offices and/or affiliated entities of insurers), Insurers and Insurance Service Providers should provide the following information to SAMA accompanying their request:

a) Details of the function to be outsourced.

b) Categorization of the function (material or non-material Outsourcing).

c) Reason for Outsourcing.

d) Details on the Third Party located overseas, e.g., name, country, address, license, activity, etc.

e) Details on the nature and disposal of the data to be transferred.

f) Details on the confidentiality agreement between Insurers or Insurance Service Providers and the Third Party.

g) Confirmation in writing by Insurers or Insurance Service Providers supported by a legal opinion affirming SAMA’s right of access to
the Outsourcing activity at the Third Party. Alternatively, Insurers and Insurance Service Providers could use a standard clause approved by SAMA in its Outsourcing contract, instead of the legal opinion. The Third Party must guarantee to abide by the legal clause.

Section E: Control and Monitoring

43. Insurers and Insurance Service Providers should ensure that their business continuity is not compromised by any Outsourcing Arrangements. For all material Outsourcing Arrangements, Insurers and Insurance Service Providers should have a contingency plan which outlines the procedures to be followed in the event of sudden termination of an arrangement or the inability of a Third Party to fulfill its obligations under the Outsourcing agreement for any reason.

In addition, Insurers and Insurance Service Providers should document within their business continuity plans the availability of an alternative Third Party or the procedures for bringing the outsourced material function in-house.

44. Insurers and Insurance Service Providers should put in place an internal structure to monitor, manage and control all of their Outsourcing activities and to provide timely reports to senior management. The nature and scope of this structure will vary within Insurers and Insurance Service Providers depending on the level, complexity and materiality of the activities.
Appendix: Examples of Material and Non-Material Outsourcing Arrangements

45. The following are typical examples (non-exhaustive list) of Material Outsourcing arrangements:

a) Arrangements involving financial data (e.g., Outsourcing an accounting function).

b) Applications processing (e.g., purchasing a new policy).

c) Back office management (e.g., funds transfer and payroll processing).

d) Underwriting services.

e) Complaints handling.

f) Investment management (e.g., signed contracts with asset managers).

g) Information system management and maintenance (e.g., data entry and processing, data centers, IT hosting, end-user support, and local area networks, production support for technology applications).

h) Manpower management (e.g., benefits and compensation administration, staff appointment, and training and development).

i) Marketing and Research (e.g., product development, data warehousing and mining, call centers, and marketing and telemarketing of insurance products and services).

j) Business continuity and disaster recovery capacity and capabilities.
46. The following are typical examples (non-exhaustive list) of non-material Outsourcing Arrangements:

a) Utilities such as telephone and electricity.

b) Market information services.

c) Advisory services (e.g., legal opinions).

d) Independent consulting.

e) Mail and courier services.

f) Printing services (e.g., policy wording, forms, and business cards).

g) Purchase of goods including their after sales or other support services, commercially available software, and other commodities.

h) Credit and background check and information services.

i) Employment of contract or temporary personnel, head hunting services, employee assessment, and consulting on staff development.

j) Security services.

k) Programming work.

l) Building maintenance and cleaning services etc.