

GOVERNMENT NOTICE No. 397 published on 3/08/2018

**SOCIAL SECURITY (REGULATORY AUTHORITY) ACT
(CAP. 135)**

GUIDELINES

(Made under section 5(1)(c))

THE SOCIAL SECURITY SCHEMES (UMBRELLA SCHEMES)
GUIDELINES, 2018

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THE SOCIAL SECURITY SCHEMES (UMBRELLA SCHEMES) GUIDELINES, 2018

**PART I
PRELIMINARY PROVISIONS**

- Citation **1.** These Guidelines may be cited as the Social Security Schemes (Umbrella Schemes) Guidelines, 2018.
- Application **2.** These Guidelines shall apply to every Scheme established as an umbrella schemes, and participating employers and members of such schemes operating in Mainland Tanzania.
- Interpretation **3.** In these Guidelines, unless the context requires otherwise-
- Cap. 135 "Act" means the Social Security (Regulatory Authority) Act,
"Authority" means the Social Security Regulatory Authority established under section 4 of the Act;
"Board" means the Board of Trustees of the Scheme and includes trust corporation or corporate Board;
"Corporate Trustee" means a company which provides services of umbrella scheme;
"Deed of adherence" means agreement for compliance between the employer seeking to utilise services of the umbrella scheme and the umbrella scheme;
- Cap. 366 "employer" has the meaning ascribed to it in the Employment and Labour Relations Act;

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Cap. 366

“employee” has the meaning ascribed to it in the Employment and Labour Relations Act;

“guaranteed fund” has the meaning ascribed to it in the Social Security Regulations;

“employer” has the meaning ascribed to it in the Employment and Labour Relations Act;

“employee” has the meaning ascribed to it in the Employment and Labour Relations Act;

“guaranteed fund” has the meaning ascribed to it in the Social Security Regulations;

“independent trustee” means a person who is not affiliated to any company that provides advisory, administration, investment or other services to the Scheme;

“pooled fund” has the meaning ascribed to it under the Social Security Regulations;

“Scheme” means the social security scheme and includes mandatory and supplementary schemes;

“Plan Provider ” means the entity that creates or establishes a scheme, initiates the plan design and sets eligibility criteria for participating employers, employees or members;

“supplementary scheme” means a voluntary scheme chosen by the member to compliment benefit of any mandatory scheme;

“Umbrella Scheme” means a Supplementary Scheme whose membership is open to employees of more than one employer and persons with accrued benefits transferred from other schemes.

Objectives of Guidelines

4.-(1) The objective of these Guidelines shall be to ensure that members of umbrella schemes have protection equivalent to members of other social security schemes.

(2) Notwithstanding sub paragraph (1), the specific objectives of these Guidelines shall include the following-

- (a) providing general guidance for registration and operation of Umbrella Schemes;
- (b) ensuring that there is high level of integrity and professionalism in the administration of the schemes;
- (c) widening coverage of social security in Tanzania by

encouraging voluntary savings for retirement through supplementary schemes.

**PART II
REGISTRATION OF UMBRELLA SCHEME**

Registration

5. A person shall not establish or continue to operate a scheme in the form of Umbrella Scheme unless that person is registered by the Authority.

Application for registration

6.-(1) A person who intends to establish or continue to operate an Umbrella Scheme shall submit to the Authority the following-

- (a) duly filled application Form prescribed in the Schedule to these Guidelines;
- (b) non-refundable application fee as prescribed by the Authority from time to time;
- (c) copy of trust deed and rules that govern the proposed scheme;
- (d) copy of investment policy of the scheme;
- (e) copy of audited financial statements of the plan provider ;
- (f) any other document related to the application as the Authority may determine.

Issuance of certificate

7.-(1) The Authority shall, within ninety days from the date of receipt of application under paragraph 6, or where additional information has been required, after receipt of such additional information-

- (a) proceed to register and issue registration certificate;
or
- (b) Rejected the application and notify the applicant in writing explaining the grounds for rejection.

(3) An applicant whose application has been rejected may re-apply, if the deficiencies that formed the basis for rejection of the initial application or subsequent review have been corrected or otherwise addressed.

(4) A certificate issued under this paragraph shall, unless suspended or revoked, remain in force in the manner provided in the Act.

Amendment of Trust Deed or rules

- 8.**-(1) Subsequent to registration, a scheme may amend its Trust Deed or rules, but such amendment shall not be valid-
- (a) if it purports to invalidate or reduce the accrued rights of a member or plan provider;
 - (b) if it purports to affect any right of a creditor of the scheme, other than as a member thereof; or
 - (c) unless it has been approved by the Authority.
- (2) Within thirty days from the date of the passing of a resolution for the amendment of the rules of a scheme, a copy of the resolution and amendment shall be submitted to the Authority for approval.
- (3) Where the proposed amendment of the rules affects financial position of the scheme, the amendment shall be accompanied with certificate signed by an actuary.
- (4) Where the Authority finds that any such amendment is consistent with the Act, and is satisfied that the financial soundness of the scheme shall not be adversely affected by the amendment, it shall approve the amendments and inform the Trustee.

**PART III
ORGANISATION OF THE SCHEME**

Plan Provider

- 9.**-(1) There shall be a plan provider who shall design the scheme and create fund for participating employers, employees and members.
- (2) The plan provider shall undertake administration of the scheme to provide day to day management of the Scheme.
- (3) The plan provider as administrator, shall manage the scheme and fund in accordance with the statutory requirements and be responsible for compliance with the Act, regulations made under the Act and these Guidelines.
- (4) The plan provider may elect a third party or a service provider or an agent to undertake administration of the Fund on its behalf.

Eligibility for plan provider

- 10.**-(1) The plan provider shall be a body corporate incorporated or registered in Tanzania in the form of-
- (a) a company;

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- (b) a co-operative;
- (c) partnership;
- (d) societies; or
- (e) Any other legal entity as may be appropriate.

(2) A provider of an Umbrella Scheme shall at all times have in its Board and top management at least three persons who are academically and professionally qualified in matters relating to either administration of social security schemes, life insurance, actuarial science, economics, law, finance or accounting.

(3) Notwithstanding sub paragraph (2), where the plan provider is a regulated entity, such entity shall meet operating requirements of the primary regulator.

Trustees of
scheme

11.-(1) There shall be trustees of the scheme whose appointment, term of office, removal from office, powers and duties and remuneration shall be in accordance with the Social Security Regulations, Guidelines for Conduct of Affairs of Board of Trustees issued by the Authority, these Guidelines and the scheme's rules.

(2) Every scheme shall have at least five trustees, three of whom shall be nominated by the participating employers amongst members of the Management Committee constituted in accordance with paragraph 12 and the two shall be nominated by the sponsor.

(3) At least one of the trustees that will be appointed the plan Provider shall be an independent trustee.

(4) A trustee shall hold office for a term of three years and shall be eligible for re-appointment for one more term of three years.

(5) Notwithstanding sub-paragraphs (1) and (2), the plan provider may, by deed, appoint a trust corporation to be a trustee or sole trustee on such terms and conditions as may be agreed in writing between the sponsor and corporation.

(6) A corporate trustee under this paragraph shall not be related to the provider in terms of ownership or directorship and shall not serve as such unless is approved by the Authority.

(7) The Board of Trustees shall meet at least four times in a calendar year:

Provided that, not more than four months shall elapse

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between one meeting and the next.

Management
Committee

12.-(1) A participating employer together with its employees, who are members of the scheme, shall nominate a maximum of three members to form a Management Committee.

(2) The Management Committee shall keep its corresponding participating employer and members informed regarding matters and activities of the scheme.

(3) Rules of the scheme shall provide for-

- (a) procedure of and grounds for the removal from office of Management Committee member; and
- (b) procedure for convening meetings.

Annual general
meeting

13. A scheme shall hold an annual general meeting to be attended by members of each participating employer whose agenda shall include a report on-

- (a) any changes to the benefits and contributions structure;
- (b) audited accounts;
- (c) investments;
- (d) remuneration of trustees;
- (e) statutory compliance; and
- (f) questions from members.

Duties of
participating
employers

14. Every participating employer in an umbrella scheme shall-

- (a) report to the administrator information about their employees who are eligible to join the Scheme;
- (b) submit contributions to the scheme within time prescribed in the scheme rules and deed of adherence; and
- (c) Undertake any other obligations of the participating employer as per terms of the scheme rules and deed of adherence.

PART IV
MANAGEMENT OF UMBRELLA SCHEMES

Partial
liquidation

15.-(1) A scheme may be partially liquidated or dissolved an umbrella scheme where a participating employer

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ceases to remit members' contributions or commits an act contrary to the provisions of the Act and the scheme's trust deed and rules.

(2) In the event of partial liquidation of an umbrella scheme, the assets of the fund attributable to the members connected to the participating employer whose withdrawal from the fund caused the partial liquidation, shall be distributed in the manner provided by the scheme's rules.

(3) The Board of Trustees shall, subject to the approval of the Authority, nominate the liquidator.

(4) The liquidator shall prepare and submit to the Authority a preliminary liquidation and distribution account which reflects full recognition of the rights and reasonable benefit expectations of the persons concerned.

(5) Where the Authority is satisfied with the submission under this paragraph, it shall direct the liquidator to complete the liquidation.

Accounting records

16.-(1) The Board of a scheme shall keep accounting records and the financial status of the scheme.

(2) The records shall be kept-

(a) in line with accounting standards prescribed by the National Board of Accountants and Auditors (NBAA); and

(b) In accordance with the Act, Reporting Guidelines issued by the Authority and Accounting Policy of the Scheme.

(3) The trustees of the Scheme shall ensure that the Scheme assets are administered and dealt with as trust property and are applied only for the purposes of the Scheme.

(4) The records shall be made available to the Authority on request for inspection at any times.

Separate accounts

17.-(1) Every Scheme shall maintain a separate account for-

(a) every participating employer; and

(b) Every scheme member.

(2) Within three (3) months after the end of each financial period of a registered Scheme, or any other time upon request from member, every Scheme shall provide member's

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statement setting out the member's position with respect to the Scheme as at the end of that period.

(3) The statement under sub paragraph (2) shall specify the member's accrued benefits and show the difference between the aggregate amount and-

- (a) in the case of a scheme member who is an employee, contributions paid by the member's employer to the scheme in respect of the member;
- (b) contributions paid to the scheme by the member;
- (c) any amount transferred to the account;
- (d) any investment income of the scheme that is attributable to the member's accrued benefits;
- (e) any amount by which the value of the scheme investments attributable to the member's accrued benefits has appreciated;
- (f) accrued benefits that have been paid to or in respect of the member;
- (g) fees and expenses deducted or deductible by the trustee from the account; or
- (h) Any other amounts payable under the Act from the account.

Appointment
of independent
auditor

18. Every Scheme shall appoint an independent auditor who shall be a member of the National Board of Accountants and Auditors.

Submission of
audited
accounts

19. The trustees shall, within six months after the end of each financial year of the scheme, submit audited annual accounts to the Authority.

Actuarial
valuation

20.-(1) Every Scheme shall be reviewed by an approved actuary after every three years and a report of the actuary shall be submitted to the Authority within three months upon receipt from the actuary.

(2) Authority may from time to time, require a scheme to be reviewed by an actuary.

(3) The Authority may exempt a Scheme from the provisions of sub-paragraph (1) if such scheme has satisfied the following conditions-

- (a) all benefits from the Scheme are fully secured by an

- approved issuer; or
- (b) All benefits, other than those fully secured by an approved issuer, being limited to an amount, or to the periodic retirement benefit which can be provided by an amount, equal to an accumulation of actual contributions, adjusted only in accordance with the direct investment return, both in terms of income and capital appreciation or depreciation.

**PART IV
INVESTMENTS**

Investment of funds

21.-(1) The funds of the Scheme shall be invested in accordance with the requirements of the Act, Regulations, the Social Security Investment Guidelines issued by the Bank and Investment Policy of the Scheme.

(2) Subject to subparagraph (1), the approved categories and limits of investment provided in the Social Security Investment Guidelines, 2018 shall not apply with regard to the investment by Schemes in pooled funds or guaranteed funds issued by an approved issuer as defined in the Social Security Regulations, 2009.

**PART IV
ADMINISTRATIVE EXPENSES AND CHARGES**

Fees and charges

22.-(1) Subject to these Guidelines and the provisions of the Social Security Schemes (Administration Expenses) Guidelines, 2018, the approved trustee of the Scheme may periodically deduct from each Scheme member's account, fees for administrative or other expenses.

(2) Every scheme shall submit to the Authority its charges and fee structure approved by the Board of Trustee before implementation.

(3) Every scheme shall disclose all administrative charges and fund management charges in their promotion materials before registering members to the scheme and in annual statements to its members.

(4) Subject to the provisions of these Guidelines and rules of the scheme, a participating employer or member may

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transfer his benefits from one scheme to another without charges other than direct charges related to the transfer.

PART IV
GENERAL PROVISIONS

Social security
levy

23.-(1) There shall be a levy payable to the Authority by the Schemes.

(2) A levy imposed under this paragraph shall be based on the net assets of the scheme at a rate to be determined by the Minister in consultation with the Authority.

(3) The value of net assets of the scheme to be used in determining the levy shall be as indicated in the latest audited accounts of the scheme.

(4) Notwithstanding sub-paragraphs (2) and (3), the minimum levy payable to the Authority shall be five hundred thousand shillings and a maximum of fifty million shillings per annum

Compliance
with other
Guidelines

24. In addition to these Guidelines, the Scheme shall comply with the requirements of all other Guidelines issued by the Authority.

Sanctions

25.-(1) Any Scheme which contravenes the provisions of these Guidelines commits an offence and shall be liable to penalties as stipulated in the Act.

(2) Notwithstanding the penalty imposed under sub paragraph (1), the Authority shall have the powers to-

- (a) direct the scheme to comply with these Guidelines;
- (b) Propose disqualification of the Board of Trustees of Schemes and Management of the Schemes to the respective appointing Authority.

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SCHEDULE

(Made under Paragraph 6(1))

PART I - DETAILS OF A PROPOSED UMBRELLA SCHEME

- A. (i) Name of the Scheme.....
(ii) Tax Identification Number (TIN).....
(iii) Name of the Plan Provider.....
- B. Provide the following particulars regarding the proposed Umbrella Scheme:
- (ii) Registered office of the Scheme:
Plot No.....
Road/ street.....
Postal Address/ code.....
Telephone.....
Fax.....
E-mail.....
- (ii) Proposed number of employers.....
(iii) Proposed number of members.....
(iv) Is the scheme established under an irrevocable trust? YES/NO.

If no, state the basis of establishment.....
- C. Provide the following details in the appendices:
- (i) Members of the Board of Trustee of the Trust Corporation or Institution rendering trust services (Appendix A)
(ii) Auditors, Legal Advisors, Actuary, Managers, Custodian and Administrators (Appendix B)
(iii) Directors or partners of provider (Appendix C)

PART II - PARTICULARS OF EMPLOYERS (MEMBERS OF THE SCHEME)

(In case of more than one employer, provide the following particulars for each on a separate attachment)

Name of Employer.....

Physical Address

Building/Plot Number.....
Road/ Street.....
City/ Town.....
Postal Address/Code.....

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Telephone.....
Fax.....
Email.....
Tax Identification Number (TIN).....

Certificate of Incorporation Number.....

PART III - ATTACHMENTS

Please attach copies of the following:-

- (i) Trust deed and Rules;
- (ii) Investment Policy;
- (iii) Latest audited report and accounts of the Trust Corporation;
- (iv) An actuarial certificate certifying the design financial viability of the Scheme;
- (v) Certified copies of certificate of incorporation of the Sponsor;

I hereby declare that section 16 of the Act has been complied with the statements contained herein and the documents submitted herewith are true and accurate to the best of my knowledge and belief. Any alterations in particulars stated herein or in the said documents will be promptly communicated to the Authority within a period not later than thirty days from the date of the alteration.

Signed on thisday of

.....
Signature of Applicant

Full Name.....

Designation.....

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APPENDIX A

PARTICULARS OF DIRECTORS OF TRUST CORPORATION

Name of Director	Nationality	Permanent Address	Occupational	Date of Appointment	Representation in the Board (Sponsor, independent or Member nominated)

Name of Trust Corporation.....

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APPENDIX B

PARTICULARS OF PROPOSED AUDITORS, LEGAL ADVISORS, ACTUARIES,
ADMINISTRATORS, MANAGER AND CUSTODIANS

	Name of firm	Tax Identification Number (TIN)	Postal, Telephone and Fax Address	Professional body to which Partners are members	Date of appointment
Auditors					
Legal Advisors					
Actuaries					
Managers					
Custodian					

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APPENDIX C

PARTICULARS OF DIRECTORS OF DIRECTORS OR PARTNERS OF A SPONSOR

Name of Director	Nationality	Permanent Address	Occupational	Date of Appointment	Representation in the Board (Sponsor, independent or Member nominated)

Dodoma
....., 2018

IRENE C. ISAKA
Director General