

UAE Insurance Law



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Federal Law Number 6 of 2007 (the “**Law**”), which was issued on 15 February 2007 established the first insurance regulatory body, the Insurance Authority in the United Arab Emirates. The Law replaces the previous enactment being Federal Law No.9 of 1984 on Insurance Companies and Agents and the amending laws. The Law applies to on-shore insurance companies incorporated that are licensed to perform and includes companies engaged in operations of cooperative insurance, takaful insurance, reinsurance companies, and insurance professionals. Takaful is based on Islamic principle of *taawun* which means mutual co-operation and *tabaru* which signifies donation or contribution. In essence, Takaful allows members to voluntarily contribute money into a collective scheme so as to guarantee each other against any risks as to loss or damage. The marked difference between Takaful and conventional insurance is that Takaful does not involve interest. Insurance companies in the region offer a wide range of takaful products including property takaful, marine and cargo takaful, family takaful, medical takaful, bancatakaful (bancassurance) and other related services. Sub-clause (2) to Article 2 further clarifies that the Law shall not apply to free zonesⁱ in the region. The Insurance Authority has promulgated Resolution Number 4 of 2010 concerning Takaful Insuranceⁱⁱ.

Article 7 of the law provides for duties and responsibilities and duties of the Insurance Authority, Article 8 provides for composition of Insurance Authority to include a board (the “**Board**”), director general, and executive body. Article 12 provides for duties and authorities of the Board. Article 7 and Article 12 broadly cover the following:

- Protecting rights of insured and beneficiaries of insurance operations, monitoring solvency of insurance companies (Article 7 (i));
- Devise code and rule of conduct to enhance capabilities of insurance companies (Article 7 (ii));
- Manage administrative areas, formulate programs and plans for overall development of insurance sector, identify risks, and approve incorporation of insurance companies;
- Devising laws (include draft laws and regulations), regulations and directives relevant to insurance industry and implement the same (Article 12 (1) to Article 12(3));
- Approve annual budget, annual accounts, and appointment of an auditor (Article 12(4) to Article 12(6)); and
- Acknowledge grants, donations, and aids; and to settle objections received from insurance companies; and executing other duties of Insurance Authority’s affairs (Article 12 (7) to Article 12 (9)).

Article 24 of the Law addresses the different form of companies that are eligible to carry out insurance and reinsurance operations in the UAE. These include a Public Joint Stock Company (PJSC)ⁱⁱⁱ, a branch of foreign insurance company; and insurance agents. Article 26 of the Law imposes restrictions on insurance companies. In that, the provision seeks to prevent insurance companies that are branch of foreign insurance companies from insuring properties or possessions that exist within the United Arab Emirates or liabilities thereof.

Article 119 of the Law empowers the UAE Cabinet with an exclusive power to issue regulations needed to implement provisions of Law number 6 and this includes issuing regulations relating to fees, minimum share capital of insurance companies, and other aspects necessary for insurance industry. In line with provisions of Article 119, the UAE Cabinet issued a resolution (Cabinet Resolution 42 of 2009) raising minimum statutory paid up share capital for insurance and reinsurance companies to UAE Dirhams 100 million and UAE Dirhams 250 million respectively; and further states that insurance companies must comply with terms of the said resolution on or prior to 31 January 2013. The Resolution also sets out that minimum seventy five percent of the share capital must be owned by a UAE citizen or; a GCC citizen.

The Insurance Authority issued the Board of Directors' Resolution Number 3 of 2010 on *Directives of Professional Practice and Code of Conduct for Insurance Companies Operating in the United Arab Emirates* (the "**Resolution**"). The Resolution sets out several important key terms requiring insurance companies to adopt and practice in operation of their business in the region.

Below is a brief overview of the Resolution:

Serial	Article reference	Particulars
1	Article 1	Definitions. Most of the definitions are already covered under the Law except that it provides for a new definition of Minister to mean Ministry of Economy
2	Article 2	Scope and Applicability. The Resolution applies to all insurance companies registered with the Insurance Authority operating in the UAE.
3	Article 3	General Provisions. This article imposes obligations on insurance companies requiring them to conduct their operations transparently, in good faith, and in accordance with best practices. The article requires insurance companies to adopt necessary mechanisms with regards to anti-money laundering (AML ^{iv}) and provides that insurance policies and other documents must be in Arabic along with an accurate translation copy of the same (In event of conflict, Arabic text supersede).
4	Article 4	Offering Insurance Services and Products. Insurance companies are required to service their clients in a timely and professional manner, insurance companies must make insured aware of means to prevent accidents, provide necessary documents and technical statistics to the insured.
5	Article 5	Pricing. The Directive requires insurance companies to abide by fair pricing practices, and not to charge premiums with inflated amounts, nor reduce the premiums rates, provide a detailed statement of rates to client, adhere to insurance pricing practices, and notify the Insurance Authority of rates the insurance company intends to apply or modify provided however that such notification is made at least thirty days prior to putting them to use.

Serial	Article	Particulars
6	Article 6	Insurance Application. In preparing the specimen for insurance application, insurance companies must ensure that the questions raised therein are clear and comprehensible, spell out clearly terms and conditions related to coverage of insurance policy, provide warnings on consequences of not giving information or giving incomplete or inaccurate information, and further the information must be submitted by authorized representative of client and not by its employees. The specimen application must include an advise note informing clients to keep the documents in a safer place and insurance company must provide the client with a copy of his insurance application.
7	Article 7	Insurance Policy. The terms and conditions set out in the insurance policy must be certain and definite and not loose or vague so as to avoid any misunderstanding. The contents of the insurance policy should be clear, and easily readable. Arbitration clause must be printed in form of a separate agreement by way of accompanying annexure. The insurance policy must clearly describe and indicate the subject matter of insurance, procedures to be followed by insured upon occurrence of insured risk, along with insertion of a special clause on arbitration as a mean to settle dispute between the parties. The insurance policy must further set out that any amendment to policy shall not be valid unless expressly agreed by parties in writing.
8	Article 8	Policy Renewal. The Directive requires insurance companies to inform their clients on renewal terms, inform that the insurance policy will not automatically renew (unless agreed otherwise). In the event, insurance policy is nearing end of term, the insurance company must inform clients of the same. Policy renewal notice should also clearly set out additional information or documentation required from client.

Serial	Article	Particulars
9	Article 9	Claim Procedure .This article sets out the claims procedure. This article requires insurance companies to adopt suitable procedures, specimen forms, specify documentation, and determine suitable term required to deal with claims. The insurance company must notify the client of progress and upon arriving at a decision – notify the client of same within fifteen days from date of receiving the full claim. Reasons for rejection of claim should not be ambiguous. The company should maintain a separate file for each individual claim received.
10	Article 10	Complaints Register . The insurance company must maintain individual records for every client and register complaints submitted by clients to establish particulars of information such as date of complaint, name of complainant, and related details. The inspectors of Insurance Authority shall have the right to examine complaints’ register to verify the information state therein.
11	Article 11	Publicity and Advertisement . Article 11 requires insurance companies to provide draft specimen of insurance policies, samples of advertisement or media to Insurance Authority prior to releasing the same or broadcasting it to the public. In cases where information being presented involves statistical figures, such figures should be precise and presented in accurate technical form. Article bars insurance companies from making any false or misleading disclosures and further provides that insurance company should not include incorrect information in respect of financial situation of company thereby giving an inaccurate impression to the public.
12	Article 12	Advertising of Life and Capital Formation Insurance Policies . This Article requires insurance companies to exercise a higher degree of caution when releasing any information to public in relation to insurance of individuals and fund operations.

13	Article 13	Dealing with Insurance Authorities and Other Official Bodies. In dealing with Insurance Authority and other bodies, the insurance company must at all times transact in transparent and professional manner. The insurance company must also provide data or information requested by the Director General of Insurance Authority for insurance applications that are rejected by the company.
14	Article 14	Settlement of Disputes Between Insurance Companies and Payment of Balances. This Article sets out that insurance companies shall settle their balances and accounts to ensure smooth operation and with the aim of avoiding any disputes. The Article also encourages insurance companies to resolve their disputes amicably or through Emirates Insurance Association before seeking judicial involvement.
15	Article 15	This Article replaces the <i>Rules Organizing Dealings of the Insurance Companies in UAE Insurance Market</i> implemented by the Ministerial Decree No.296 of 2004 issued by the Minister of Economy.
16	Article 16	The Directive shall be published in the Official Gazette and put into effect following expiry of three month as from date of its publication, which is 21 March 2010.

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ⁱ Freezone is an area wherein goods or products are shipped to; or manufactured and assembled without any involvement or restrictions from customs or port authorities and goods are free of custom duties and levies. A freezone in UAE allows companies and individuals to form a free zone company or

a free zone establishment. A free zone establishment is a company with one sole shareholder. Freezone entities enjoy hundred percent ownership rights in company's shares and are free of any personal or corporate taxes. The TECOM, Dubai Internet City, RAKIA, Ras Al Khaimah Free Zone, Sharjah Airport Free Zone, Dubiotech, Dubai Silicon Oasis, Dubai Airport Free Zone, JAFZA, etc. are some of the leading freezones across the UAE

ii The Takaful Regulations are comprehensive and detailed. The resolution empowers Insurance Authority to monitor and inspect activities of Takaful insurers. The resolution provides definition of Takaful insurance to include family, health and personal accident insurances. The resolution forbids non Takaful insurers from marketing their products through Takaful system.

iii Article 64 of the UAE Commercial Companies Law (Federal Law number 8 of 1984) defines a Public Joint Stock Company (PJSC) as *“Any company whose capital is divided into equal value negotiable shares shall be considered a public joint stock company and a partner therein shall only be liable to the extent of his share in the capital”*

iv The Insurance authority has also issued a board resolution (Board Resolution Number 1 of 2009 – *“Directives on Procedures for Anti-Money Laundering (AML) and Combating Terrorism Financing through Insurance Activities”*). The resolution came in to effect from February 2010 and criminalizes money laundering activities. The resolution mandates every insurance company to establish strong AML procedures, Know Your Client (KYC) disclosures, and is subject to inspection of Insurance Authority inspectors.