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Ms. Mercy Munoni

Acting Minister in the Ministry of Finance and National Planning

Ministry of Finance and National Planning

Chimanga Road

Lusaka, ZAMBIA

Attention: Mr. Danies K. Chisenda

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Date: 10 October 2024

Subject: GFIA letter to Zambia's Ministry of Finance and National Planning

Dear Minister,

Background and Introduction

On behalf of global insurers, the Global Federation of Insurance Associations (GFIA) would like to express our concerns related to the Insurance Act No. 38 of 2021 (the “**Act**”) which was enacted by the Parliament of Zambia on 20 May 2021 and subsequently came into operation by Statutory Instrument No. 83 of 2022 issued by the Minister of Finance on 29 November 2022.

Of concern to us are the provisions of Section 49 of the Act, which provide as follows (“**Section 49**”):

- (1) A licensed insurer or reinsurer shall not have less than thirty percent of the licensed insurer or reinsurer's subscribed share capital owned by citizens or a citizen owned company.**
- (2) A licensed insurance broker shall not have less than fifty-one percent of the licensed insurance broker's subscribed share capital owned by citizens or a citizen owned company.**

Under the Act, a citizen owned company is defined as a company where one hundred percent of its equity is owned by citizens and in which citizens have significant control of the management of the company.

The Act has a significant impact on existing (re)insurance companies and insurance broking companies, with licensed entities required to comply with the shareholding requirements by December 2026. GFIA notes that such measures are much more likely to undermine, rather than strengthen, the local insurance industry and ultimately lead to higher (re)insurance premiums, to the detriment of policyholders. GFIA has observed in many jurisdictions globally that a sound risk-based supervision is more effective in achieving policyholder protection and supporting the development of the local

industry than trade barriers.

In this letter, GFIA wishes to request your office to consider revising the Act to ensure that existing insurance and insurance broking companies continue to operate in Zambia without such restriction. GFIA details below the implications of Section 49 on the foreign investment in Zambia and the insurance broking sector.

The Impact of the Legislation on Foreign Investment in the Insurance Sector

GFIA believes that, in its current form, the legislation is not conducive to Zambia's objective to advance development and foreign investment. It will require disruptive and costly adjustments from existing foreign participants to secure compliance.

GFIA members are especially concerned that the Act introduces damaging equity caps on foreign participation in (re)insurance companies and intermediaries in Section 49, which contradicts the prevalent global trends to allow full foreign ownership of insurance entities. According to the World Bank, many countries have removed limitations in this area, which is true for both established markets in Europe and North America, as well as Zambia's neighbours and other emerging economies in Africa.

GFIA also submits that Section 49 is at variance with the New Dawn Government's policy on the promotion of foreign direct investment in Zambia, hence its enactment prior to the New Dawn Government's entry into government. President Hakainde Hichilema has reiterated on many occasions the Government's commitment to establishing Zambia as a reliable investment partner of choice on the African continent. However, Section 49 goes against this principle.

GFIA also wishes to bring to your attention the following noteworthy recommendations made by the Parliamentary Committee on National Economy, Trade and Labour Matters on the then Insurance Bill, N.A.B 36 of 2021 (the "Committee"):

- *Zambia was a signatory to a number of trade protocols, including the African Continental Free Trade Area ("ACFTA"), and this provision was at variance with the policies espoused in these protocols. Zambia, as a signatory to these protocols, was obliged to remove barriers that impeded the free movement of persons, goods and capital as well as right of establishment in its economy.*
- *Stakeholders lamented that clause 49 contradicted the Government's economic growth objectives and its commitment to removing anti-competition practices. The measures as set out under this clause would not result in the creation of a vibrant Zambian private sector. Rather, they would force out foreign investment from the insurance industry to the detriment of Zambia's reputation as an investment destination and could have a negative impact on the availability of internationally competitive insurance products and services.*
- *In relation to clause 49(2), which sought to restrict foreign ownership of a licensed insurance broker to 49 per cent, stakeholders expressed concern that this would hinder foreign investment in the market and have a negative effect on competition in the insurance sector.*
- *Reduction of foreign shareholding below 70 per cent [for insurance companies] had the potential to trigger capital flight, which could lead to the collapse of the industry.*

GFIA supports the Zambian Government's empowerment policies and welcomes solutions that encourage sustainable development through foreign participation in the sector. Foreign investment in insurance increases the local market capacity, secures access to technology and global expertise, and supports healthy competition and the emergence of products that meet consumers' immediate needs. In Zambia, foreign majority-owned companies employ thousands

of local citizens in well-paid positions and invest in developing local talent.

GFIA members are committed to improving bilateral trade and investment and want to continue supporting the Government's efforts to empower Zambian communities.

The impact of Section 49 on existing Insurance Broking Companies in Zambia

The implications of Section 49 on insurance broking companies are even more onerous, as it prevents foreign investors from holding a majority or controlling interest. Furthermore, foreign investors will be required to divest their interest in existing insurance broking companies to ensure they no longer hold a controlling position. This will negatively impact these companies, as minority shareholders are unable to drive strategy and growth.

Thus, GFIA respectfully asks that:

- Section 49 of the Insurance Act is repealed in its entirety; or
- insurance brokers be treated on the same basis as licensed insurance companies, so that licensed insurance brokers shall not have less than 30% of their subscribed share capital owned by citizens or a citizen owned company; or
- a 'grandfather clause' be introduced, as recommended by the Committee, which limits the provision of Section 49 of the Insurance Act to companies established after the Act comes into effect.

Sincerely,

Global Federation of Insurance Association



Contacts

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About GFIA

The Global Federation of Insurance Associations (GFIA), established in October 2012, represents through its 42 member associations and 1 observer association the interests of insurers and reinsurers in 68 countries. These companies account for 89% of total insurance premiums worldwide, amounting to more than \$4 trillion. GFIA is incorporated in Switzerland and its secretariat is based in Brussels.