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Making Insurance Business Robust, Resilient and Sustainable Within the CIMA-Zone

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Abstract:
Insuring risk in a modern economy requires a lot of expertise. Insurance is a complex business and its survival will depend on better mastery of its fundamental principles and functional mechanisms. The failure of this industry could lead to social and economic disaster, and the collapse of public trust in the government of the day. There is no gainsaying that insurance plays a vital role in the functioning of a modern society as it helps to spur up many activities. The financial and capital market, banks, international trade, and the realization of heavy investments (construction of bridges, dams, roads), would not have seen the light of day if not for insurance. The government stands as a key player that has undertaken to strengthen insurance activities thus rendering it robust, resilient and sustainable. This article dissects the legal framework for the resilience of the Insurance sector within the Africa Common Insurance Market (CIMA) Zone and explores prospects of a more resilient, robust and sustainable insurance business in the zone.

Keywords: *Insurance, CIMA-Zone, principle, control, regulation*

1. Introduction

Human life is surrounded with risk and therefore requires a better insurance scheme to cater for unforeseen unfortunate situations[1]. The desire of mankind to guard against hazards, diminish risks and aim for a better living led to the development of various insurance schemes, for example, liability insurance, life insurance, fire insurance etc.

Insurance in essence is a situation whereby a person known as the insurer contracts with another person known as the insured, against the payment of a premium with the view of indemnifying the former in case of the realisation of the event or the risk assured against. To corroborate this,Hardy Ivamy defines insurance as:

> *"A contract of insurance in the widest sense of the term, may be defined as a contract whereby a person called the insurer, undertakes, in return for an agreed consideration, called the premium, to pay another person called the assured, a sum of money or its equivalent on the happening of a specified event".*

Based on the above definition, insurance business involves the collection of huge sum of money from the insured.

This spans over a period of time of at least a year as is the case with motor insurance and also it can be for a longer period as in the case of life insurance. The uncertain event or certain event might take place or not. The determination of insurance companies to manage this money in such a way that those requesting for indemnification are satisfied in due time and equally making profit out of the money they have at their disposal. By doing this, they need an enabling environment. The laws and regulations guiding the running of insurance activities, and the principles must be strictly respected by the parties involved. Thus making insurance robust resilient and sustainable does not only depends on the government overseeing its activities but also on the technocratic management by all the agents in insurance.

The cleansing of the insurance market has always been a fundamental reason of governments in the world and particularly the States of the CIMA[2] ZONE. The policy of cleaning the insurance market is one of the major preoccupation (concern) of the African legislator. This is one of the major objectives of CIMA, which watches over insurance activities. A better functioning of the insurance is hinged on the permanent control of insurance activities, that is from creation right up to its operations and end of its activities.

For a long time, the control of insurance activities was limited to the protection of the policyholder against unscrupulous insurers and for other technical reasons. First of all, the need to guarantee the services of the insurer which is linked to future and uncertain events and eventually the lack of necessary tools or knowledge to ascertain the solvency of insurers.[3] Afterward, insurance business became a phenomenon of large numbers and public powers preferred not to

[1] L'assurance nait du souci de l'homme de préserver son bien-être social, celui de ses biens et des siens puis de rechercher toujours le moyen de supporter la charge du dommage qu'il subit ou de la responsabilité qu'il encourt. L'ENA, l'assurancethéorie-pratique-comptabilité, AA éditeurs, 1979, P25-33

[2] It is of interest to note that CIMA is the Central insurance supervisory authority in Sub-Saharan French speaking African countries. Presently, it groups: Benin, Burkina Faso, Cameroon, Congo-Brazzaville, Mali, Niger, Senegal, Togo, Equatorial Guinea and the Comoros Islands.

[3]LAMBERT-FAIVRE ET LEVENEUR, (2005) Droit des Assurances "The policyholder does not have the legal and technical competence nor the economic power to permit him to negotiate the terms of contract whose general conditions are unilaterally drafted by the insurer. In this light the policyholder desperately needs the help of the government.This has become a remarkable force to reckon with in the law of insurance". Précis Dalloz 12e edition, P.100-107.

only appreciate contract clauses between the parties but also towards third parties who are victims as far as liability insurance is concerned. This protection intensified as time went on due to the multiple ills that rocked the world after the Second World War.[4]These ills spurred States to reinforce or intensify the methods of control and the rules and regulations relating to the functioning of insurance activities.

It is worthy of note to understand the definition of resilient, robust and sustainable in relation to our topic. The elaboration of these three pillars will give a vivid picture of our view point as far as this topic concerned.

Robust as defined by Cambridge Advanced Learners Dictionary[5] Fourth Edition, simply means strong and healthy. That is capable of performing without failure. When we link this to the sphere of insurance practice, it is the desire of states to see into it that the insurance market remains strong and healthy in all its ramifications.

Resilient is not too different from robust but has more to do with resisting or being able to withstand or recover quickly from difficult conditions.[6]

Sustainable simply means being able to continue over long time.[7] Sustainability in insurance aims to use the resources (premiums) collected diligently, that is putting the money collected in such a way that it is beneficial to all the parties concerned.[8] Why is sustainability important? Sustainability looks to protect the business of insurance while rendering it prosperous and profitable.

Assuring a strong and healthy insurance market will depend very much on the determination of the governments and the will of the insurance actors to render the industry viable. This paper seeks to review the fundamental principles inherent in insurance business which are the guidelines and tailor the manner in which things ought to move. The government on its part stands as the pace setter to insurance activities. In this vein it has to effectively intervene to enhance a better performance. The insurance companies too must be transparent in their transactions. This assessment will equally focus on other countries. The final section gives recommendations and conclusion.

2. The Principles of Insurance

Insurance is an essential financial apparatus that enables better risk management of uncertain financial outcomes. For insurance services and products to provide sufficient financial protection, it is imperative that insurance markets are sound and safe for policyholders, with a robust institutional framework of insurance regulation and supervision. This demands both clarity in the objectives and mandates of the insurance authority and a well-delineated and coordinated division of labour between the relevant insurance authorities.[9]

Generally, insurance contract like other contracts is guided with a number of fundamental principles such as indemnity, insurable interest, utmost good faith, contribution, subrogation, proximate cause and legality in that insurance cannot be effected for an illegal purpose. Equally, insurance business like any other economic activity has brought a lot of contributions to the economy of Cameroon at various levels as seen below for better understanding.

Generally, each fundamental principle of insurance defines a fundamental rule of action or conduct that addresses the legal side of the insurance industry. Each applies to both the insured and insurer throughout the life of an insurance contract, from the date of application to the date of cancellation. In total, the six principles of insurance make up legal, binding guidelines for entering into an insurance contract and for preparing, lodging and managing lawful insurance claims.

2.1. ThePrinciple of Utmost Good Faith

This is one of the general principle governing insurance under the CIMA code.[10] It applies to all contracts but an insurer can insists on a more stringent requirement utmost faith. Equally, the principle of Utmost good faith is a principle dating back in the case of *Carter v. Boehm in 1766*, which was based on precedent rather than on a set of defining codes or statutes. Utmost good faith principle requires honesty and full disclosure at all times, starting with the application phase.

It prevents both the insured and insurer from concealing or misrepresenting facts during the application phase, prevents the insurer from ever altering the policy without full disclosure during the time the policy is in force and, in the event of a loss, requires the insured to provide a full, honest representation of the facts surrounding the event and loss. Violating this principle can be the basis of a case for fraud. The notion of "good faith" looms large in English law. Whereas its genesis may lie in equity, its application may be observed in various branches of the law which involve dealings between persons: partnerships, company promotions, family settlements, succession to land, and so on. English law does not, as a rule, impose a duty of good faith on parties to a contract.[11]

The Marine Insurance Act 1906for example states that a contract of Marine Insurance is a contract based upon the utmost good faith, and, if the utmost good faith is not observed by either party, the contract may be avoided by the other.[12]This proposition is regarded widely as expressing a principle that is applicable to marine and non-marine

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[4] Notably the economic crisis, increase in unemployment and equally the increase of international trade du the opening of borders and the development of trade across national boundaries.

[5] Cambridge University Press (2013), P.1334

[6] https://www.merriam-webster.com/dictionary/resilient

[7] Cambridge University Press op.cit.p.1588

[8]Policyholdrs, policy-makers and regulators

[9]OECD (2018), The Institutional Structure of Insurance Regulation and Supervision, www.oecd.org/finance/The-Institutional-Structure-of-Insurance-Regulation-and-Supervision.pdf.

[10] See article 12 of the CIMA code.

[11]See Keates v. Cadogan (Earl of) (1851) 10 C.B. 591, 138 E.R. 234; Fletcher v. Krell (1873) 42 L. J. Q. B. 55. French law, by contrast imposes a general duty of good faith in respect of all contracts: see article 1134 of the Civil Code.

[12]Section 17 of the Marine Insurance Act 1906.

insurance contracts.[13] Within the context of pre-contractual non-disclosure dispute in regard to property insurance, the Supreme Court has affirmed that the: contract of insurance requires the highest standard of accuracy, good faith, candour and disclosure by the insured when making a proposal for insurance any misstatement in the answers given, when they relate to a material matter affecting the insurance, entitles the insurance company to avoid the policy and repudiate liability if the event insured against happens.[14]

There is however, an exception in respect of the so-called contracts of utmost good faith contracts uberrima fides, the most important of which is the contract of insurance. It is a fundamental requirement of insurance law that the parties should observe the utmost good faith in dealing with each other. As James V. C. said in Mackenzie v. Coulson:[15] There is no class of documents as to which the strictest good faith is more rigidly required in Courts of Law than policies of assurance.In connection with the proposer's duty to disclose material facts to the insurer, Lord Mansfield said as long ago as 1766.[16] Good faith forbids either party by concealing what he privately knows, to draw the other into a bargain, from his ignorance of that fact, and his believing the contrary. The doctrine of good faith applies substantially to contracts of all kinds of insurance.[17]

However, in the rules which the courts have developed in this respect, clear distinctions may be observed which take into account the variety in types of insurance and differences in the nature and object of each type. In the case of marine insurance, the common law rules developed since Carter v Boehm[18] were codified and given statutory authority in sections 17 and 18 of the Marine Insurance Act 1906[19].

As Powell points out, good faith can be either objective or subjective."By objective good faith", he explains, "I mean the standards of the ordinary man. Subjective good faith means individual honesty".[20]A concept of good faith, similar to that prevalent in English law, is known to French law and French-speaking Cameroon[21]. Article 1134 of the French Civil Code stipulates that contracts, including, of course, those of insurance, must be performed in good faith. The Code does not define good faith; nor does it provide the standard by which it is to be judged. Planiol and Ripert explain that article 1134 means that every contracting party must act as an honest man in everything connected with the conclusion and execution of the contract.[22]

In this opinion echoes of Powell's concept of subjective good faith can be discerned. Withspecificreference to insurancecontracts, a French writer has remarked: « on observe un phénomène parallele en Angleterre et en France pour affirmer que le contrat d'assurance est un contrat de bonne foi et que les parties doivent Changer entre elles tous les renseignements nécessaires pour apprécier le risque, faute de quoi le contrat d'assurance est declar‘nul".[23]

2.2.The Principle of Insurable Interest

The principle of insurable interest states that in order for a loss to “count” an insured must have an interest in or own the item being insured. Interest can be subjective, as in life insurance, or it can be a physical thing, such as a car or home. Either way, insurable interest prevents a person from taking out a policy or an insured from making a claim or collecting payments for a person he doesn’t have a direct relationship with or an item he doesn't own.

This principle is basis to the structure of insurance. The law requires that, every person who takes out an insurance policy must have an insurable interest in the subject matter of the insurance. If the insured has no insurable interest the contract is invalid. It is a gambling or wagering contract and not an insurance contract. Insurable interest has been described as the legal right to insure. The implication being that its absence amounts to an absence of the legal right to insure. In order to constitute an insurable interest, the insured must be in some legally recognized relationship to what is insured whereby he will suffer some financial loss, by the happening of the event insured against.

A working definition of insurable interest has been given by Mac McGillivray on Insurance 5th Edition as follows:

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[13]Ahern, The Formation of Insurance Contracts and the Duty of Insurers‖ [2009] CLP 84; Bennett, Mapping the Doctrine of Utmost Good Faith‖ [1999] LMCLQ 165; Davey, Unpicking the Fraudulent Claims Jurisdiction in Insurance Law [2006] LMCLQ 42; Merkin and George, The Continuing Duty of Utmost Good Faith‖ (1998) 10 SA Mercantile LJ 135; Merkin and Lowry, Good Faith and Breach of Warranty‖ [2004] LMCLQ 158; Long more, An Insurance Contracts Act for the New Century? [2001] LMCLQ 356; Lowry and Rawlings, Insurers, Claims and the Boundaries of Good Faith‖ (2005) 68 MLR 82; Campbell, The Nature of an Insurer‘s obligation‖ [2000] LMCLQ 42; Rose, Information Asymmetry and the Myth of Good Faith‖ [2007] LMCLQ 181; Ryan, Moral Hazard and the duty of disclosure [2007] CLP78; Soyer, Continuing Duty of Utmost Good Faith in Insurance Contracts‖ [2003] LMCLQ45; Tarr, Fraudulent Insurance Claims [2008] JBL 139; Thomas, Fraudulent Insurance Claims‖ [2006] LMCLQ 485.

[14]Kenny J in Chariot Inns Ltd v AssicurazioneGenerali Spa [1981] IR 199 at 225.

[15](1869)8 L.R.Eq.368 at 375.

[16] In Carter v. Boehm (1766) 3 Burr. 1905 at 1910; see also Mathias Djoumessi v. Guardian Royal Exchange Assurance (Cameroon Ltd.)(1975), Suit No. HCB/18/74 of 11 July 1975, Bamenda (Unreported) a case in the English-speaking Cameroon.

[17] See, for example, Joel v. Law Union and Crown Ins. Co. [1908] 2 K.B.863, at 878 (life insurance); Rozanes v. Bowen (1928) 32 LI.L.R 98, at 102 (burglary insurance); Locker and Woolf Ltd. v. Western Australian Insurance Co. Ltd. [1936] 1 K.B. 408 (fire insurance); Seaton v. Heath (Burnard) [1899] 1Q.B. 782 (Solvency insurance.

[18] 1766) 3 Burr. 1905.

[19] See also a recent emphasis of the requirement of utmost good faith in a marine insurance case: Black King Shipping Corporation and Wayanq (Panama) S.A. v. Massie [1985] 1 Lloyd's Rep. 437 at 507-519,where the insured failed to disclose the fact that 'The Litsion Pride' would sail into the Persian Gulf - a war zone. The court held that the insured was required to notify any relevant information from time to time and as they failed to do so they were in breach of a material warranty.

[20] R. Powell, op. cit., at 23.

[21] For the view that the general notion of bona fides may be traced to Greek influence, see Fritz Pringsheim "L'Origine des contratsConsensuels", (1954)32 (4E Serie) Revue Historique de DroitFrarTaisettranger 475. See also by the same author, The Greek Law of Sale Weimar, Hermann BohlausNachfolger, Germany, 1950, pp.14, 58, 87 and 418.

[22]See: Planiol and Ripert, Traits Pratique de Droit Civil Franvois, Vol.6, Obligations by Paul Esmein, 2nd ed., 1952, 508.

[23]See:BorhamAtallah, L'Action Directe Contre l'Assureur de la Responsabilit6 Automobile Obliqatoire, 1967, pp. 152-153. See also Picard and Besson, oa• cit. at 126.

> *Where the insured is so situated that the happening of the event to which the insurance money will be payable will as a proximate cause involve the insured in the loss or diminution of any right recognized by law or in any legal liability there is an insurable interest in the happening of the event to the extent of the possible loss or liability.*

Strictly the definition of insurable interest as contained in the Marine Insurance Act refers to what constitutes an insurable interest in a marine adventure.[24] But the definition thus indicates what will constitute an insurable interest. In other insurance transaction, the requirement of insurable interest applies to all classes of insurance whether the insurance is in respect of property, life liability or contingency.

Whenever an insurable interest exists, the following essential attributes must be present:

- There must be property, life or limb, rights, interest of potential liability devolving upon the insured capable of being insured against.
- Such property, life or limb, right interest or potential liability must be the subject matter of the insurance.
- The insured or policy holder must bear some relationship recognized by law to the subject matter whereby he will benefit the safely of the property, life or limb, rights, interest or freedom from liability and he will be prejudiced by any loss, injury or damage or creation of liability.

2.3. The Principle of Proximate Cause (Cause Proxima)

In the course of human affairs every event that occurs is the impact of some cause. The event must have been preceded by some cause or happening. Thus, if a house is destroyed by fire the cause of the fire may be a gas explosion or the house might have been set on fire by an angry mob of rioters or strikers. Whatever the cause of the fire, the impact produced by the fire, in this example, the destruction of the houses, is only the last link in the claim of causes and impact.[25]

The principle of proximate cause is concerned with the rules which determine whether or not a loss which is a subject of the claim was brought about by an insured peril. Thus, each time an accident occurs resulting in a loss which will form the subject matter of a claim, the cause of the loss must be ascertained. However, if the proximate cause of the loss is an insured peril, then insured can recover, but if on the other hand the proximate cause of the loss is an excepted peril, or an insured peril, the insurers are not liable and the insured cannot recover in respect of his loss.[26]

The proximate cause of loss may be an insured peril, or an excepted peril or an uninsured peril. In order to make the insurer liable to indemnity the insured, the loss must be a direct consequence of a peril insured against. Word "Cause Proxima" means "Nearest Cause". An accident may be caused by more than one cause. In case property is insured for only one cause. In such case nearest cause of the accident is found out. Insurer pays the claim money only if the nearest cause is insured.

Proximate cause which does not apply to life insurance addresses what perils an insured chooses to cover and identifies insurer liability when two or more perils come together to cause a loss. It states that the proximate, closest or most dominant cause determines liability. For example, if an insured has fire but no flood insurance, and a fire causes water pipes to burst and flood the home, the insurer is liable for damage the fire causes. However, because bursting water pipes are the dominant cause of the flood damage, the insurance company is not legally liable to pay any claims resulting from repairs.

2.4. The principle of Subrogation

Subrogation is a principle of substitution and recovery. It puts an insurance company in a middleman position when a third party causes a loss and in this way helps to control insurance costs. For example, in the case of an auto accident, subrogation stops an insured from collecting payment from two insurance companies for the same loss, places responsibility for the accident on the third party and gives an insurance company the legal right to demand recovery for any payments made to the insured as a result of the accident.From the above one can say deduced that Subrogation is a right that is normally exercised by an insurer who, having paid a loss that has arisen under a policy executed as between the insurer and an assured, steps into the shoes of the assured in order to eliminate or reduce the loss in question. The insurer is able to obtain the benefit of any rights and remedies available to the assured against third parties and may in fact sue any third party in the assureds' name.

In the leading Irish case of *Driscoll v Driscoll,*[27] for example O'Connor MR said that: the foundation of the doctrine of subrogation is to be found in the principle that no man should be paid twice over in compensation for the same loss. The corollary to this is that a contract of indemnity against loss should not have the effect of preventing the insured from being paid once in full. I do not think that this can be disputed.[28]Notwithstanding, an example of the first situation outlined above can be found in Irish cases such as *Ballymagauran Co-operative Agricultural and Dairy Society Ltd v The County Councils of Cavan and Leitrim,*[29] and *Doyle v Wicklow County Council.*[30] In both of these cases actions were brought for compensation for malicious damage against local authorities. The fact that the applicants had contractual actions against their insurers, or had actually been paid on the foot of insurance, did not provide a defense on the malicious injury claim.

In *Doyle v Wicklow County Council* Griffin J, for a unanimous Supreme Court wrote that: it is irrelevant whether the applicant in the present case had insured against the risk of damage by fire or otherwise, or whether or not he had been

[24] Section 7(1) and (2) of the Marine Insurance Act 1961
[25]TabeTabe S., op cit, p.54.
[26] ibid.
[27][1918] 1 IR 152.
[28]Ibid at 159.
[29][1915] 49 ILTR 49.
[30][1974] IR 55.

paid on foot of his policy of insurance. If he had already been paid on foot of the policy of insurance he, as the insured, must account to the insurers for any benefit he receives from his claim for compensation.[31]

Part of the subrogation principle involves a more proactive proposition: the insurer is subrogated to any claim of any character which the assured is entitled to bring in proceedings against a third party to diminish his loss.[32] While the insurer cannot recover against the wrongdoer in circumstances where the insured could not have successfully mounted an action, the possibility that the insured could have theoretically recovered against a wrongdoer may leave open subrogation rights. It matters not that the insured would not have commenced proceedings for obvious reasons. That is the wrongdoer was a family member or an employee, the likelihood that such a person had, or was expected to have, separate insurance being non-existent.In*Lister v Romford Ice and Cold Storage Co Ltd*[33] an insurer was held entitled to be subrogated to the right to sue an employee of the insured who had injured a fellow worker in the negligent carrying out of employment duties. Because the contract of employment did not give the negligent employee an express or implied right to be indemnified by the employer for the negligent carrying out of contractual duties, the way was left open for the insurer to utilize subrogation rights without the consent of the employer indeed, even if this was contrary to the wishes of the employer, not least because the insurer can conduct subrogation litigation in the name of the insured.

Subrogation has its origin in English common law, having been derived by the English Court from the Roman law. On this point controversy abounds as to the sources of the doctrine in English law. Hence, while some authors hold the view that it is a creature of equity, others think that, it is doctrine of the common law; implied where necessary.[34]

It has been held in discussing the fallacies of *Simpson v. Thomson* that subrogation is either a piece of machinery which enables equity to make use of the common law to vindicate an equitable right or it is a concept which only serves to define the extent of an equitable right. Whatever view be taken equity is clearly linked to the doctrine of subrogation and if this be so, what is the nature of the equity from which subrogation arises?

In *Randol v. Cockran*,[35] the plaintiff under writers indemnified ship owners in respect of loss sustained by the capture of their ship. The Common Law later granted general letters of reprisal and prices, the question was whether the under writers could claim a proportion of the price money. In confirming that they could, Lord Hardwicke ruled that they had *"The plainest equity that could be".*By plainest equity was meant that the insurer after satisfaction stand in the place of the insured as to the goods salvaged and restitution in proportion for what he paid. The doctrine of subrogation has become a settled rule of international insurance law and practice today. It would be read into every insurance policy which is a contract of indemnity and is therefore not necessary to have it specifically stated in the policy. In practice however, most insurance policies which have a subrogation which has the effect of reminding the insured of its existence.[36]

2.5. The Principle of Contribution

Contribution applies in a case where an insured holds more than one policy for the same thing. It allows insurance companies to share the cost of claims and prevents an insured from collecting in full on more than one policy. The principle of contribution states that an insured can make a claim equal to the extent of a loss from one or all insurers. If one insurer pays the claim in full, the insurer can then recover a percentage of the payment from the other insurers.

Like subrogation, contribution is a principle designed to prevent unjust enrichment. It too applies only to those insurance contacts that are contracts of indemnity. Unlike subrogation however contribution applies not as between the insured and the insurer but as between insurers. There is nothing wrong in an insured and the insurer but as wishes on the same property or against same risk, so that he may be doubly insured. If he suffers a loss, he is of course, by virtue of the doctrine of subrogation, entitled to no more than full indemnity but he can at common law choose from which insurer to claim. The insurer which pays is entitles to claim a contribution from the other insurer or insurers, as otherwise the latter would be unjustly enriched. The insurer claiming a contribution must be in his ownname. As far as it affects insurance law, the term contribution has been described as: "the right of an insurer who has paid under a policy, to call upon other insurer equally or otherwise liable for the same loss to contribute to the payment.[37] Contribution as a legal doctrine had its origin from the English of Equality where it was first developed as a means of ensuring the equitable distribution of liability amongst joint debtors or joint wrongdoers.

Thus, if Mr. A and Mr. B both motorist, by their collective acts of negligence cause damage to Mr. Cs property, both are jointly and severely liable to C and may claim damages from either A or B from both of them. If he claims in full from A., A having paid C in full is entitles to obtain contribution from B, the joint wrong doer. In insurance, contribution arises where there is a double or multiple insurance in force covering the same subject matter, the same interest and the same peril.[38]

We have seen that the principle of indemnity forbids an insured person from recovering more than his actual loss. But nothing prevents a person from effecting two or more insurance in recoveries of the same interest, all that the law insists under the policy must not exceed his actual financial loss. Thus for instance Mr. A may insure his car comprehensively with two companies, but in the event of a loss resulting in a claim, he can only recover the exact of the

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[31]Ibid at p74.
[32] McGillivray, paragraph 22-36.
[33][1957] AC 555.
[34]Ibid p.48.
[35] (1748) 1 VesSen 98
[36] Ibid.
[37]Ibid p.56.
[38] Ibid.

loss i.e. a full indemnity, and no more and he is free to claim in full from either company. The principle of contribution allows the insurer who has paid in full in this circumstance to recover a proportionate contribution from the other insures.

Contribution, like the principle of subrogation, is a corollary to the principle of indemnity and only applies to insurance policies which are contract of indemnity. It does not therefore apply to personal accident and life polices which are not contacts of indemnity. In the leading case of *North British and Mercantile Insurance Co. v. Liverpool and London and globe Insurance Co.*[39], the subject of contribution was discussed at length.

2.6 Principle of Indemnity

The principle of indemnity refers to the payment of money for claims. It says an insured should get no more and no less money than the insurance policy permits and the extent of the loss allows.[40] Provisions in the policy dictate whether claims are valued at cash or replacement value taking or not taking an allowance for depreciation or the face value a policy defines for policies that insure valuables such as artwork or antiques. Indemnity does not apply, however, to life insurance policies.

It is of interest to note that Indemnity is a central principle in insurance law in that the purpose of an insurance contract is to provide indemnity. It is a fundamental principle of insurance law that all insurance policies except those of life and personal accidents are contracts of indemnity when arising from an insured peril, the insured shall be placed in the same position that be occupied immediately before the happening of the event insured against. The insured is not allowed to recover more than his actual financial loss. In reality, it is possible for an insured person to recover less than a complete indemnity, for instance, where he has underinsured but it is illegal and against public policy for the insured to recover more than the amount of his actual financial loss.

However, to make sure that insurance remains a contract of indemnity, the law has introduced the concept of subrogation which is discussed under the CIMA CODE.[41] Under common law, the principle of indemnity was discussed by the courts in the leading case of Castellain v. Preston. In this case, a house was insured against fire risk. The assured sold the house but before completion of the sale of the house, that is before the vendor conveyed the house to the purchaser, the house was damaged by fire. The insurer paid for the damage for pending conveyance, the vendor was, of course still the owner. Later the purchaser paid the full price of the house and when the insurer heard of this they claimed the return of their payment under the policy. It was held that the action succeeded, for otherwise the insured would have made a profit on the insurance. The court in discussing the principle of indemnity had this to say:

> *The very foundation in my opinion of every rule which has been applied in insurance law is this, namely: that the contract of insurance contained in marine or fire policy (and that equally applies to accident policy other than personal accident) is a case of indemnity and of indemnity only. And that this contract means that the insured in contract of a loss against which the policy has been made shall never be more than fully indemnified. That is the fundamental principle if insurance law. And ever a proposition is brought about which is at variance with it that is to say which either will prevent the insured from obtaining a full indemnity, or which will give the insured more than a full indemnity, the proposition must certainly be wrong.*

These principles have helped enormously in formulating the legal framework of insurance and equally moulded insurance contracts in varying ways. It is without doubt that the robustness, resilience and the sustainability of the insurance industry relies to a greater extend on the principles being the very foundation of its existence. In this regard, the government plays a predominant role for insurance to thrive.

3. The Role of the Governments of Member States

The government in a bid to secure the entire insurance market have to work in collaboration with the Insurance Regional Authority. In this vein, it has imposed certain rules and regulation guiding the working of insurance. Its objective is to limit insurance companies from taking excessive risk, permanently protect the interest of policyholders.

3.1. Ensuring the Implementation of Prudential Norms

The regulatory authorities establish the prudential[42] norms and management norms to ensure the solvency, the liquidity and the regulations of insurance companies. Thus, it is necessary to check or control to see whether those norms, regulations and professional norms and usages are well implemented and respected within the companies. To this effect, they are charged with the duty of specifying the conditions under which the insurance companies maintain the management standard as would guarantee their liquidity, solvency and the balance of their financial structures.

Governmental control is just to attest and see into it whether the insurance companies are operating within formulated norms of the insurance commission, ensuring solvency and liquidity and the respect of the regulations and the professional usage. It all aim at ensuring that there is no crisis and irregularities that might lead to failures in the insurance companies. It is also on this basis of the soundness and effectiveness of the control system or procedures that ensures proper accountability, reporting, and transparent disclosure to shareholders. This can be done by establishing and

[39] (1877) 5CH D 569 CA

[40] Indemnity has been defined as compensation or remuneration for loss or injury sustained. Thus, to prevent the insured from obtaining unjust enrichment, insurance policies limit payment to the amount of loss of the subject to the policy limits. For example, if an insured with a one million fire policy covering a house worth 800,000 francs sells it during the policy term noting will be paid if the house is destroyed before it is sold, the insured can collect only 800, 000 francs because that is the amount of the loss.

[41] See article 42 of the CIMA CODE.

[42] At the centre of these prudential norms we can find security, liquidity and profitability. Prudential rules could be defined as the guarantee which an insurance company has to meet up with its engagement towards policyholders or consumers of insurance at any time that there is a sinister.

implementing procedures that can be independently verify and safeguard the integrity of the financial reports, and the disclosure in what way needs to be made on time. The control of the insurance activity is characterized by its diversity. The control can be divided into control of entry into the insurance business and the control of the insurance company when it is a going concern. The control of entry into insurance business translates the intention of the legislator to prevent the opening of the floodgate into the insurance business thereby eliminating from the industry institutions that are of doubtful aptitude and morality.

The control of the insurance companies when it is a going concern aims at assuring that the insurance company operates within acceptable norms, and more generally to control the conditions of operation of the company, to guard over its financial situation and to ensure respect of professional ethics.

3.2. Restriction of Access to the Insurance Business

The purpose of this restriction is to avoid deceptive policies practices. This is usually controls conducted to restrict access to the insurance business. To this effect, some conditions are to be fulfilled. These conditions are legal, financial and technical conditions.

<u>3.2.1. The Legal Requirement for the Formation of an Insurance Company</u>

Generally, there are usually some legal requirements which need to be met with before it can commence business. The legal requirements are mainly concerned with the granting of license, form of the concerns and the documents on which contracts are to be based and which determine the contractual relationship with policyholders.

<u>3.2.2. Granting of License to Avoid Deceitful Insurers</u>

It is trite law; any company seeking to operate an insurance business must obtain licence to do so. The reasons being that the government controls and ensure that the entire intended insurer is not a deceptive insurer or an insurer not duly authorised by law. To this effect, the CIMA code provides that, companies under the control and supervision of the commission can only commence with their activities after having obtained a license. However, as regards reinsurance transactions, the license shall not be required.

The license must be granted on the request of the company, for activities of one or several branches of insurance. The company may only carry out activity for which it is licensed.[43] However, contracts underwritten in violation of the granting of license rules must be considered null and void. But this nullity is not enforceable to the insured, policyholders and third beneficiaries where they are of good faith.[44]

As far as the granting of license is concern, there exist some criteria for the granting of such licence. First and foremost, all documents accompanying the application of licence must be prepared in the official languages. In order to issue the approval, the supervision commission take the following conditions into account:

- The technical and financial means whose implementation is to be proposed and their suitability with the company's program of activity;
- The integrity and competence of the persons assigned to run the company;
- The distribution of its capital or, for the companies, the terms and conditions of the constitution of the start-up funds; and
- The general stricture of the market.[45]

With this, any opinion considered to be unfavourable must be justified and notified by the insurance supervisory commission. The unfavourable opinion indicating the total or partial refusal of the license may only be given if the company had been previously notified by registered letter to make its remarks in writing within a fifteen day time limit.[46] This is not absolute as an option is given to the company to lodge an appeal before the Ministerial council within two months following the total or partial refusal of licence or, in the absence of notification, upon expiry of a six-month time limit following submission of a dully constituted license application file.[47]

<u>3.2.3 The Legal Requirements of Form of the Concerned</u>

At the very inception of insurance activity, statutes exhibit the state's interest in solidity by control of the form of the company through which insurance business should be carried on. In Cameroon and England, the supervisory authority requires insurance concerns to assume a particular legal form. The end product of insurance is claim settlement. A consumer of insurance services whose claim is not paid by the insurer has certainly lost the protection insurance is supposed to provide him/her.As a result, it is important that consumers be properly educated on claims procedure in the insurance world. The high level of illiteracy coupled with consumer apathy make it very difficult for the average Cameroonian to be interested in protecting his rights. Nonetheless, the CIMA Code has made certain classes of insurance compulsory[48], and the need for proper information is increasingly felt.

A lot of people who ordinarily have their claims paid, lose their right of indemnity from the proposal stage. The very first thing a proposer needs to do is to make sure that the insurer with whom he intends to do business with is

[43]Article 326 of the CIMA code.
[44]Ibid.
[45] Ibid, article 328-3.
[46]Ibid.
[47]Ibid.
[48]Article 200 of the CIMA Code has instituted compulsory insurance for all those who operate motor vehicles, semi-trailers and trailers on the road. Before the CIMA Code, Cameroon following Law No.65-LF-9 of 22 May 1965 had introduced compulsory motor insurance.

legitimate. The CIMA Code holds: any insurance company of a member state...must be incorporated in the form of a Public Limited Company (PLC) or Mutual Insurance Company (MIC).[49]

Subject to the provisions of this code, no insurer shall commence insurance business in the Central African region unless the insurer has obtained a business license by registering in the Commerce Register of his or country.[50] In spite of the above provisions, there are unregistered or unlicensed insurance companies, who go about collecting money from the unsuspecting public. They usually have their agents who go around in motor parks and at the port of entry where cars are cleared. They indulge in rate undercutting by charging below the approved tariffs because they know they have no intention of ever settling resulting claims.

In Cameroon only incorporated associations are allowed to transact insurance business. As already noted, the acceptable forms of incorporation are limited liability companies or mutual insurance companies.[51] Thus, an insurance company may not be incorporated in the form of a corporate sole.[52] To this effect, individuals or unincorporated associations are not among those who may be authorised to carry on insurance business. This implies that, individuals are not allowed to transact insurance business in Cameroon. The Cameroonian legislation requires insurance companies to be registered or incorporated under Cameroonian law.

3.2.4 The Control of Documents Intended for the Public

Fundamentally, insurance law is concerned with regulating two broad fields: the functioning of insurance concerns and the contractual relationship between insurance concerns and policyholders. Before the advent of the CIMA code, in Cameroon, article 59(1) of the 1985 Ordinance requires insurance concerns to send their policies, general policy conditions, proposal forms and other documents intended for the public or to be distributed or supplied to policyholders to the Minister of Finance who may recommend any necessary corrections or modifications before business is commenced.

The approval of these documents is a pre requisite for the grant of a licence to operate. The object of this inspection of documents by the supervisory authority is to ensure that the contractual relationship is founded upon a legal basis which is not prejudicial to the interests of the insured.[53]

3.2.5.Control of the Financial Requirements of the Company Concerned

After the form of the company is chosen, the concern of the law to implement the solidity principle becomes more profound and significant demands are made to ensure adequate capitalisation of the new enterprise. In the early days of an insurance company, capital plays a crucial role as this enables the company to operate with assurance as merely a risk distributor. It is not surprising therefore, that fairly substantial sums of paid-up capital are requisite to the formation of an insurance company.[54]In Cameroon, the legislation relating to the financial requirements before an authorisation is granted makes provision for the setting up of initial share capital and of initial guarantees. Limited liability insurance companies are required, prior to the final incorporation of the company to pay up not less than one-third of their holdings in cash.[55] This was the situation before the advent of the CIMA code.

The CIMA code provides to this effect, that, companies incorporated in the form of limited liability companies and whose registered office is located in the territory of a member state must have a minimum share capital of one billion FCFA, excluding contributions in kind. However, with respect to mutual insurance companies an initial capital of not less than the amount to be provided for by decree must be paid up. On the other hand, insurance companies undertaking life insurance business and capital accumulation transactions are required to set up guarantee reserves.

Cameroon under CIMA, has experienced an increased in the financial capital[56] of insurance companies be it public limited companies, mutual corporations or intermediaries[57], which has bolster the strength of regional insurers and retaining more premiums within the CIMA local market. Financial guarantee is one of the major innovations elaborated by the CIMA Code, whose intention is to permit insurance intermediaries and by extension insurers to easily meet up with their engagements towards policyholders. This measure also permits to limit adventurers, the disorderly proliferation of insurers and anarchical insurance brokerage agencies. The CIMA community has doubled its effort by increasing the ceiling of premium retention within individual countries from 25% to 50%, for major lines of businesses. Certain business activities retain up to 100%, for instance illness, motor, accident, cargo and life risk insurance. The exception to this retention rule is marine and aviation hull and liabilities, and offshore oil risks.

These guarantees are intended to guard against any financial difficulties such as, any deficiency in the technical and actuarial provisions which a newly incorporated company might face. The establishment of guarantee reserves exempts companies subject to these provisions from establishing the initial share capital generally required of limited

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[49]Book III, Section 301, CIMA Code.
[50] Article 326 of the CIMA Code; See Article 385 of the OHADA Uniform Act Relating to Commercial Companies and Economic Interest Groups.
[51] This position was postulated by Article 11 of the 1985 Ordinance. But today the CIMA code has taken the position and provided for such as the only legal forms to be chosen by the promoters of insurance companies in Cameroon. See article 301 0f the CIMA code.
[52]Article 301 0f the CIMA code.
[53]Tumnde M. (1986), op. cit. p. 65.
[54]Ibid.
[55]Article 13(2) of the 1985 Ordinance, before the introduction of the CIMA Code. The code take over in the same faith.
[56] The minimum capital requirements have been increased from 1 billion to 5 billion for public limited liability insurance companies and equally that mutual insurance companies have been increased from 800 million francs CFA to 3 billion franc CFA.
[57] Article 524(1) of the CIMA Code, stipulates that, all insurance general agents, brokers and usury companies must justify at every moment a financial guarantee. In addition to this article 524(2), states that financial guarantee can only be take into account if it is lodged in an approved credit establishment or ai an approved insurance establishment.

liability companies.In addition, it is interesting to realise that the Cameroonian legislator has imported the margin of solvency[58] concept and requires insurance companies to maintain a guarantee fund. To this effect, as a further safeguard, in case an insurance company runs into financial difficulties, the legislation provides for the constitution of guarantee reserves to meet any deficiency in the actuarial and technical provisions. Furthermore, insurance companies are required to maintain throughout the life of the concern, a margin of solvency at least equal to the regulatory amount.

3.3 Supervise Terms and Conditions of the Insurance Policy

Another area where caution is important is with regards to the terms and conditions of the policy. These terms include general and stringent terms.

There are usually three types of general terms, namely: Condition precedent to the validity of the contract; Condition subsequent to the validity of the policy; Condition precedent to the liability of the insurer. As for condition precedent to the validity of the contract, these are conditions that must exist at the time of the formation of the contract or to the attachment of the risk for the contract to be valid. Until such conditions are fulfilled there is no contract or if there is a contract, the risk under it does not attach.[59] They may be implied or express.

There are issues agreed upon by the parties before or during the formation of the insurance contract. They include the payment of the premium or contribution of insurance, existence of an insurable interest, names and residence of contracting parties, the effective date and duration, the subject matter on which insurance could be effected, the conditions of automatic renewal, if stipulated, the cases and conditions of extension or termination of the contract or cessation of its effect.[60]A breach of any of these conditions renders the contract null and void and not merely voidable.

Concerning condition subsequent to the validity of the contract, these conditions come into effect after the formation of the contract and agreed by the parties as essential to the continuous validity of the contract. Usually they relate to things, which the insured must do or refrain from doing for the continuous validity of the contract such as: aggravation of risk, double insurance in respect of the same risk, assignment of policy etc. For instance, where at the time of the motor vehicle insurance claim the driver is not of the required age or does not have the valid documents required by the regulation in force for the driving of a motor vehicle except in the case of theft, violence or use of the vehicle without the insured's knowledge, also in regards to persons transported, when the transportation is carried out without the safety conditions laid down by the competent authorities.[61] The effect of the breach of these conditions depends on the intention of the parties. If their intention is to render the contract void from the date of the breach or to suspend the contract until the breach is remedied.

With condition precedent to the liability of the insurer, this type of condition does not affect the validity of the policy, rather it relates to things which the insured should do or refrain from doing in order not to prejudice his interest in the event of a claim.[62]For instance, most insurers have the following conditions in their policy forms. In the event of any occurrence which may give rise to a claim under this policy, the written statement of the accident must be transmitted to the insurer within 30 days with full particulars.[63]Every letter, claim, writ of summons and process shall be notified or forwarded to the company immediately on receipt. Notice shall also be given to the company immediately the insured shall have knowledge of any impending prosecution, inquest or fatal injury in connection with any such occurrence as aforesaid. Regarding stringent terms, the law intervenes to mitigate the hardship the insured suffers as a result of stringent terms and conditions in insurance policies. Under Common Law, once any term is made a "warranty", its breach entitles the insurer to repudiate liability no matter how irrelevant it was to the policy. Once there is a warranty, no question can arise as to its materiality or immateriality to the risk, it being the very purpose of the warranty to exclude all controversy upon that pool.[64]

The effect of the "basis of contract clause" was to elevate every statement made in the proposal form, no matter how irrelevant to the status of warranty. These enabled insurers to avoid claims indiscriminately, even when the breach of the warranty lessens the risk. This was exactly what happened in *Dawsons v Bonnin*.[65] Under the CIMA code the breach of such conditions renders the policy null and void.[66]However, it is worth noting that the situation does not apply to third parties who are victims or beneficiaries.[67] Similarly, a very important innovation of the CIMA code is article 13 which obliges the insured to take special note of the expiry date of his contract. It states that the effective date of coverage shall depend on the payment of the premium by the insured. As concerns contracts renewed by tacit consent, the non-payment of a premium or fraction thereof after 10 days of its due date shall lay coverage open to suspension after a period of not less than 30 days…[68]

[58] Article 337 of the CIMA Code, stipulates that, that all insurance enterprises subject to control by virtue of article 300 must justify a sufficient solvency margin in relation to all their activities. In 2012 the Cameroonian insurance market had a solvency margin of 238% and satisfied 107% of regulated engagements covered. www.fanaf.org.
[59] See the English case of Zeus Tradition Marine Ltd v Bell, (2000) 2, Lloyds Rep. 58, 9.
[60]Article 8 (1) of the CIMA Code.
[61]Article 207 and 208 of the CIMA Code.
[62] R.M. Merkin, J.S. Smith, The Law of Motor Insurance, 1st ed., Sweet and Maxwell Limited, London, Great Britain, 2004, P 236.
[63]Article 230 of the CIMA Code.
[64] M. A. Clarke, The law of Liability Insurance, Informal Law by Routledge, London, 2013, p 147.
[65](1922) AC 413. In that case the insured inadvertently gave an address in Glasgow, 46 Cadoganstreet, Glasgow as where the insured lorry was garaged at night. The lorry was actually garaged at the outskirts of Glasgow which in fact lessened the risk of fire. Yet when the lorry was destroyed, it was held that the insured could not recover even though the breach had no effect on the risk.
[66]Article 207, 208, and 211 of the CIMA Code.
[67]Article 210 of the CIMA Code.
[68]Regulation No.001/CIMA/PCMA/PCE/2011, modifying and completing the insurance code of the CIMA member states.

4. The Place of Association of Insurance Consumers

These organs are called as such because they defend a particular interest of certain categories of persons. Their presence in a company is not obligatory even if their action is salutary. In effect the problem related to the cleansing of the insurance market is very serious and therefore puts into play specific interests. That is why their intervention is of utmost importance. Their intervention in the sphere of insurance have a great influence in the control of insurance companies and facilitates the mission of institutional organs.[69] In effect, these organs are closer to insurance companies than the institutional organs. This is a great tool to health of insurance market and the effective protection of the insured. In this light, it would be worthy to view the role of both organs in protecting consumers and assurers.

The operation carried out by the association of insurance consumers could be non-contentious and contentious. In the first case, they can act by preventing insurers from indulging in activities that can affect the general interest of the insured. Meanwhile in the second case, they are party to any litigation in civil jurisdictions within the national territory, to support the initial complaints lodged by their fellow consumers. The fallout of their action will benefit all consumers in the present and future cases in the settlement of any prejudice suffered as a result the weakness of the insurer controlled. Consumers can as well invoke the decision arrived at in future cases in order to obtain indemnification for prejudice suffered.[70] Finally, the reinforcement of the law of consumers is very important because we are living in an era where deceptive and seductive advertisement are common place. It is good to boast the insurance market by fighting against abusive contractual clauses.

On the part of the association of insurers, article 270 of the CIMA Code gives the possibility of creating the National Commission of arbitration. This has led to the creation of the association of insurance consumers. This denomination changes with respect to different countries. In Cameroon, it is known as the association of insurance consumers (ASAC in French). This is the only insurance professional association that acts as an intermediary between insurance companies and the control authorities[71]

The association of insurers aims ranges from under billing of insurance premiums, fight against disloyal competition amongst insurers. In this vein, it looks after the regulation of member insurance companies. It equally makes sure that the commissions given to insurance intermediaries are not exaggerated. Through the fight against malpractices in the insurance sector, the association of insurers has stood out as another arm which reinforces insurance control within the CIMA Zone and helps the Cameroonian public authorities to take necessary measures in ameliorating the Cameroonian insurance market.[72]This are laudable in the sense that in 2007 severe sanctions were taken against certain delinquent insurance companies. Despite the disciplinary sanctions meted on them, their licences were later seized by the Regional Insurance Commission which is the regulatory organ of CIMA.[73] Thanks to these diverse controls piloted by ASAC, which led to the cleaning of the Cameroonian insurance market. This equally saw the withdrawal of many insurance licences[74].

Finally, ASAC has a communication unit which transmits to hierarchy the result of investigations carried out for appropriate actions to taken. This serves as a reminder to the national control brigade and gives information on a permanent basis on the working of the 5.0

5. Conclusion

The objective of this article is to make known to the public the fundamental principles and the roles played by the governments and the association of insurance consumers to boast the insurance market. The core of it, being the fight against fraud in this domain. Detecting fraud is not an easy task. That is why the Regional Insurance Commissioners and National Inspectors work hand in glove to unravel this canker worm that has eaten deep into the system. These aforementioned auditors must have a good mastery of the rules and regulations put in place, the technical capacity to do their work. In addition to this they must take their mission seriously and also be rigorous in the fight against fraud.

An effective and efficient functioning of the insurance market would depend very much on the respect and implementation of a set of guided principles that are grounded on economic theory.[75] The economic foundation for regulation is hinged on the existence of market failures. Some of the market failures prevalent in insurance include severe asymmetric information problems and principal agent conflicts that could lead some insurance companies to incur excessive financial risk or engage in abusive market practices that harm consumers.These are some of the factors that trigger government intervention. The prudential rules put in place seek to prevent the insolvencies of insurance companies and render them more financially viable. In this aspect, the regulator must at every instance verify the

[69] Notably through the support they give to Control Commission on all litigations of indemnity that have not been settled by some insurers: the denunciation or exposure of companies whose activities do not conform to insurance regulations or denouncing any act that negatively affects policyholders.

[70] This type of prejudice constitutes the refusal of insurance companies to indemnify legal claims, the persistence of the insurers to conclude transaction with the insured who is victim, the abundance of many conditions imposed on the civil party by the insurance company and finally by the existence of abusive clauses

[71]Article 78(1), 79 and 80 of the Ordinance of 1985. ASAC was created by ordinance N°85/003 of 30 August 1985 by applying article 66 of ordinance N°73/14 of 10 May 1973, fixing the rules applicable to insurance organisms. It is placed under the Minister of Finance whose principal mission is to promote and develop the insurance sector

[72] In February 2013 for example, ASAC launched an operation known as “coup de poing” in which insurance companies proceeded in the verification of the authenticity of motor vehicle insurance and the number of vehicles insured because according to the president Mr Ferdinand Meng ‘’many people circulate with their vehicles without insurance policy” www.cima-afrique.org.

[73] The licence of SAMIRIS INSURANCE was seized.

[74] The licences of the following companies were seized; SAMIRIS, ALPHA assurance, SOCAR, National d’assurance IARD, Satellite insurance, SociétésTransafricained’assurance, Province réunis. www.cima.afrique.org.

[75] Klein, R. Principles for Insurance Regulation: An Evaluation of Current Practices and Potential Reforms. Geneva Pap Risk Insur Issues Pract 37, 175-199(2012). https://link.springer.com/article/10.1057/gpp.2011.9

application of these rules through desk control and on the spot control of their transactions. In addition to these appropriate sanctions[76] should be meted on insurers and intermediaries that take unfair advantage on consumers, such as misrepresenting the terms of insurance contracts and failing to pay legitimate claims.

The goal of this operation is not only to inflict sanctions to unscrupulous agents in the insurance market but is also meant to accompany these insurers to better manage their companies in line with the rules and regulation in force so as to avoid bad practices. That is why the pedagogic aspect of government intervention helps the auditors and controllers to give probable proposals which necessitate change and an eventual amelioration of this activity. Thanks to this mechanism that the insurance market within the CIMA Zone is doing fine despite some difficulties encountered.If the technics to cleanse the insurance industry thus rendering it robust, resilient and sustainable were not put in place, the protection of the interest of policyholders, subscribers of insurers, capital and the beneficiaries of insurance contracts would have been a fiasco.

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[76] The CIMA legislator encourages the eradication of insurance companies which refuse to comply with the regulation put in place. In effect, the withdrawal of licence is spelt out in article 325((11,12,13 and 14) of the CIMA Code. The organ in charge of this is the regional commission for insurance control.