



Guideline to trustees for the submission of reinsurance contracts with registered insurers to the Registrar of Medical Schemes in terms of Section 20 (3) of the Medical Schemes Act 131 of 1998, as amended.

Guideline to trustees for the submission of reinsurance contracts with registered insurers to the Registrar of Medical Schemes

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1 Introduction

The Medical Schemes Act No. 131 of 1998, as amended (Act) by the Medical Schemes Amendment Act No. 55 of 2001, requires that all reinsurance agreements, including any amendments to existing contracts, be reviewed, prior to implementation, by the Registrar of Medical Schemes in terms of Section 20(3) of the Act.

The purpose of this guideline is to:

- Provide assistance to trustees in understanding the reinsurance legislation;
- To clarify the information that should be submitted by the trustees to the Registrar; and
- To provide a framework for independent evaluations to be carried out in terms of the Act.

2 The purpose of the legislation

The legislation arose out of clear warning signals apparent within the medical schemes' environment that reinsurance contracts are often entered into needlessly with significant adverse implications for schemes.

The legislation acts as a support to trustees who will be better informed about the necessity for and usefulness of any proposed contract of reinsurance.

It is not the intention of the legislation that the Registrar takes over this function from trustees. Instead the Registrar will review the decisions made by the trustees and ensure that these are adequately supported by independent advice.

3 Definition of reinsurance contract and reinsurer

3.1 Reinsurance contract

"Reinsurance contract" means any contractual arrangement whereby some element of risk contained in the rules of the medical scheme is transferred to a reinsurer in return for some consideration." (Section 1(1) of the Act.)

Where a scheme, through its obligations to members in terms of its rules, faces identifiable risks that:

- Cannot be managed through the scheme's reserves; and
- Are contingent upon:
 - Ø Benefit design; and
 - Ø Pricing or cost management

reinsurance could be considered by the trustees of the scheme.

The main purpose of reinsurance contract is to manage the risk of fluctuations in claims payments to an acceptable level. This is done to reduce the risk of insolvency because of adverse claims experience.

3.2 Reinsurer

A 'reinsurer' (section 1(1) of the Act) means an insurer:

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- Registered as a long-term insurer in terms of Section 9 of the Long-term Insurance Act, 1998 (Act No. 52 of 1998) (as amended), unless that insurer is prohibited from engaging in the practice of reinsurance in terms of Section 10 of that Act; or
- Registered as a short-term insurer in terms of Section 9 of the Short-term Insurance Act, 1998 (Act No. 53 of 1998) (as amended), unless that insurer is prohibited from engaging in the practice of reinsurance in terms of Section 10 of that Act.

Offshore/foreign insurers such as Lloyd's syndicates do not fall within the definition of reinsurer.

Local cell-captive arrangements with licensed local reinsurers need to provide full disclosure of its shareholding, directors and flow of funds to ensure transparency and no conflicts of interest.

4 What is required when entering into a reinsurance contract?

It remains the primary responsibility of the scheme's trustees to determine the need for reinsurance and to agree to the terms of the contract (premium, services, etc.). In coming to their decision, the trustees should consider the need for an expert advice. Section 20(3) (b) of the Act requires an expert evaluation of the need for reinsurance, said expert not having a direct or indirect financial interest in the relevant reinsurance contract.

Section 9.3 of this guideline provides a list of the issues where independent expert advice is required.

Where a scheme intends entering into any reinsurance contract or effecting any amendment, including a change in premiums, of such reinsurance contract, the Board of Trustees must provide the details as per Section 9 of this guideline to the Registrar prior to the commencement date.

Any failure in this respect will result in the contract being null and void. Any monies paid or received by the scheme will have to be recovered and repaid from and to the reinsurer retrospectively from the date of commencement of the contract or amendment.

In order to allow for the 30 days for the Registrar to review the contract and for the trustees to respond to any issues that may be raised, it is suggested that the submission reach the Council for Medical Schemes at least two months before the proposed commencement date of such contract or amendment.

5 What will happen when the Registrar receives the contract?

In terms of Section 20(4) the Registrar may in writing raise, within 30 days of having received any such reinsurance contract or amendment and evaluation, any matter in respect of the terms of such contract or amendment, taking into account whether:

- Due consideration has been given by the medical scheme concerned to the need for reinsurance, based upon an assessment of the financial risks to which the medical scheme is exposed;
- The reinsurance contract is in the best interests of the members of the medical scheme concerned; and
- There is any conflict of interest between the parties to the reinsurance contract.

Note that the period of 30 days will commence only after all the documents and information required for the evaluation has been received.

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6 What is expected of trustees from the response of the Registrar?

The Board of Trustees is obliged to address, to the satisfaction of the Registrar, any matter raised, prior to the implementation of the reinsurance contract or any amendment to an existing contract.

Any failure to address the matters raised to the satisfaction of the Registrar will result in any reinsurance contract entered into being null and void in accordance with Section 20(7). Any monies paid or received by the scheme in terms of the contract will have to be recovered and repaid from and to the reinsurer, retrospectively from the date of commencement of the contract or amendment.

7 Who can do an evaluation?

The evaluation is not limited to an actuary and can be performed by any person with appropriate skills in statistics, health economics, and actuarial science.

Such person needs to be fully conversant with the Act.

The person performing the evaluation needs to be independent with all potential conflicts of interest fully disclosed to the trustees. Such disclosure must be attached as part of the evaluation. Section 20(3) (b) of the Act states that the evaluator must have no direct or indirect financial interest in the contract.

A trustee or administrator is not considered to be an independent entity.

8 Submission to the Registrar

8.1 What should be provided by the trustees?

Trustees should make sufficient information available to allow the Registrar to assess whether:

- Due consideration has been given by the medical scheme concerned to the need for reinsurance, based upon the financial risks to which that scheme is exposed;
- The reinsurance contract is in the best interests of the members of the medical scheme concerned; and
- There is no conflict of interests between the parties to the reinsurance contract.

Trustees should therefore provide the following minimum information to the Registrar:

- The complete contract, including all service level agreements and all annexures;
- Certification in terms of Section 20(6) by the trustees that:
 - Ø The agreement or amendment constitutes the entire agreement between the scheme and the reinsurer; and
 - Ø There are no other arrangements between the scheme and the reinsurer other than those expressed in the contract or amendment.
- The minutes of the meeting(s) where the trustees agreed to enter into the contract;
- A declaration of all conflicts of interests that may exist between the parties to the reinsurance agreement;
- A written submission by the trustees fully motivating the agreement and providing relevant information and declarations;
- An evaluation, in the form of a separate report, of the need for the proposed reinsurance contract conducted by a person with the necessary expertise;

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- A statement of any brokerage payable and the appropriateness of this arrangement;
- A description of the process of obtaining quotes and the adequacy thereof. Copies of all quotes obtained should be included;
- A copy of the reinsurer's registration certificate and license to do business;
- Proof of the reinsurer's capacity to do the required business; and
- In the case of a cell captive arrangement, a copy of the shareholder agreement, the annual financial statements of cell shareholders and all the details relevant to the cell shareholders.

Any failure to provide complete information concerning the contract, or an adequate evaluation demonstrating the need for the reinsurance agreement, may result in further requests for information thus delaying the implementation of the reinsurance agreement or amendment.

8.2 Issues that need to be addressed in the trustees' submission

8.2.1 Details of the reinsurer and who can reinsure

The reinsurer needs to be identified. Its "license" to do this business in terms of the relevant Insurance Acts must be confirmed and a copy submitted.

8.2.2 The reinsurer

Proof of the reinsurers' capacity to take on the proposed contract (e.g. its latest Capital Adequacy Requirements and solvency ratios as per the relevant Insurance Acts) must be obtained from the reinsurer and attached as part of the submission to the Registrar. Cognisance should also be taken of any other medical scheme contracts that the reinsurer might have entered into that could impact on its capacity.

In the case of a cell captive arrangement the financial position of the cell shareholder is required in addition to the reinsurer.

8.2.3 Process followed in the selection of a reinsurer and the contract

The submission must indicate whether a quotation or tender process was followed. Details of all the competing quotes or prices and conditions tendered must be included in the submission as well as the detailed request for proposals (i.e. attach copies of the Request for Proposal and all the quotations and pricing). The reasons for selecting the reinsurer and the cell captive should also be provided with the assessment.

8.2.4 Contract details

The terms of the contract need to be carefully assessed in relation to the risk transfer intended via the agreement. All aspects of the contract that involve a shifting of risk back to the scheme must be identified and used to validate the economic cost of the contract in relation to the risk reinsured.

Any exclusions, other than those included in the scheme's rules, the right of the reinsurer to increase premiums or cancel the contract before termination, would impair the transfer of risk.

Any additional services delivered by the reinsurer or broker should be explained and the impact on the current administration contract should be illustrated.

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In the case of a cell captive arrangement the terms of the shareholder agreement needs to be evaluated. The agreement must state that the insurer accepts ultimate liability in the event that the cell captive cannot pay.

The scheme should specify the type of reinsurance that is being considered, e.g. excess of loss or proportional reinsurance and whether multiple levels of reinsurance would apply.

8.2.5 Need for reinsurance

The need for the reinsurance must be motivated substantively. The main considerations in determining the need for risk sharing are the size of the scheme (risk pool), the scheme's solvency level and the size and variability of the risk as well as other risk management initiatives in place.

There is a cost associated with the transfer of risk; this is usually higher than the expected cost of claims that will be recovered under the arrangement. The scheme would need to evaluate the need to incur this higher cost in the light of the risk of a loss that the scheme cannot cover itself.

Each risk to which the scheme is exposed and which is proposed to be reinsured must be clearly identified and explicitly quantified. The likelihood of occurrence should also be stated or estimated. Generic risks, which are endemic to all schemes, such as ageing membership, anti-selection, HIV/AIDS, etc. are not considered insurable risks, especially in short term contracts.

8.2.6 Best interests of the scheme

The submission must demonstrate adequately that the reinsurance agreement is in the best interests of the scheme members. The fact that the proposed policy is expected to, or has in the past, resulted in a profit for the scheme is not an indication, on its own, that the contract is in the best interests of the members.

8.2.7 Solvency of the scheme

The relationship between the reinsurance agreement and the scheme's solvency must be indicated. In this respect, the trustees must confirm that the scheme will be able to meet its statutory solvency requirements.

The trustees should also explain why the solvency levels are insufficient such that reinsurance is required. The extent of the risk, the probability and the possible impact on the reserves should be quantified. The statement that reinsurance is being considered to "protect" reserves is not sufficient.

The trustees should also explain if reinsurance is required because of an actual or perceived inadequacy of solvency levels. If this is the case, reasons should be provided.

Should a scheme have more than the required statutory reserve levels, the fact that the scheme has a small risk pool is not sufficient rationale to justify the need for reinsurance. The scheme should therefore:

- Demonstrate why the solvency level above 25% does not offer sufficient protection against the risks insured;
- Quantify what level of solvency would be considered adequate to obviate the need for reinsurance cover; and
- Demonstrate quantitatively how the proposed reinsurance will offer such protection.

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8.2.8 Service level agreements

The evaluation should identify and assess the nature and usefulness of any service level agreement included as part of the reinsurance agreement. Care should be taken to ensure that no duplication of services occur between the administrator and the reinsurer or any broker or intermediary.

8.2.9 Brokerage commission

The trustees need to indicate:

- All details of the broker(s) to whom such commission is payable;
- The basis upon which the commission has been established;
- The services provided by the broker concerned; and
- Full details of the value of the commission payable.

8.2.10 Profit shares

Full details must be provided concerning all profit sharing arrangements. This should also be taken into account in the pricing of the agreement.

For cell captive arrangements details of amounts payable i.r.o. profits to the insurer by the cell captive shareholders and vice versa must be stated.

8.2.11 Purpose and nature of reinsurance

The purpose and nature of reinsurance is described by the Reinsurance Association of America as follows:

Reinsurance enhances the fundamental objective of insurance, to spread risk so that the entity does not saddle itself with a financial burden beyond its ability to pay; and

Reinsurance does not change the inherent nature of the risk being reinsured. It does not make a bad risk insurable or an exposure more predictable or desirable.

The trustees must therefore confirm that the reinsurance agreement:

- Complies with the definition of reinsurance and has no other purpose;
- Is not to be used as a basis for removing funds from a scheme; and
- Is not used as a means of diverting funds for the payment of brokers or any other party, whether directly or indirectly.

8.2.12 Full disclosure of all related agreements

The trustees must confirm that the reinsurance contract or amendments thereto including cell captive arrangements, constitute the entire agreement between the medical scheme and reinsurer with respect to the business being reinsured there under, and that there are no arrangements between the medical scheme and the reinsurer other than those expressed in the contract or amendment or cell captive arrangements.

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In the case of cell captive arrangements all agreements between the reinsurer and the cell captive must be submitted.

Note that any failure to make this disclosure will render the agreement null and void in terms of Section 20(7) of the Act. Any monies paid or received by the scheme in terms of the contract will have to be recovered and repaid from and to the reinsurer, retrospectively from the date of commencement of the proposed contract or amendment.

8.2.13 Independent evaluation (see para 8.3)

The trustees must provide an independent evaluation of the need for reinsurance.

The Registrar is particularly interested in ensuring that the pricing of the reinsurance agreement is appropriate for the risk(s) that is reinsured. An evaluation which does not clearly and accurately establish this link will not be accepted.

8.3 Independent evaluation

8.3.1 Structure of report

The independent evaluation needs to provide an overall qualitative and quantitative evaluation of the reinsurance contract. This report should be provided in a manner and format consistent with the requirements of the Act. The information provided needs to be sufficient for decision-making purposes by the trustees and the Registrar. The report should contain the following:

- Details (including qualifications) of the person who prepared the report and for whom it was prepared;
- Date of submission of the report;
- A declaration that the report was independent to the extent required by the Act;
- A full description of the information reviewed;
- A general description of the reinsurance agreement/ cell captive arrangement;
- A detailed description of each risk to be addressed by the proposed reinsurance agreement;
- A detailed description of the pricing of the proposed agreement, with particular reference to the termination and renewal conditions;
- A description of the profit share arrangement (if applicable);
- A statement of any brokerage payable and the appropriateness of this arrangement, whether paid by the scheme, the insurer or any other party;
- A statement of the appropriateness of the process of obtaining quotes and the adequacy thereof;
- A comparison of all reinsurance quotations made to the scheme; it should include a comparison of terms, overall annual limits etc;
- Detailed comments on the appropriateness of the agreement in respect of the following, based on the quantitative analysis:
 - The overall reinsurance agreement / cell captive arrangement, its terms, conditions and pricing;
 - Any brokerage commission paid;
 - The reinsurance premium given the scheme specific risks;
 - The type of reinsurance in the light of the scheme specific requirements;
 - The impact on the reserves; and
 - The need for the reinsurance contract over-and-above the scheme's reserve levels.
- The report should provide a quantitative evaluation assessing the following:
 - Prior financial results and future projections;
 - Provisions for future claims;
 - Assessment of the risks faced by the scheme;

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- Pricing of the risk; and
- Effective transfer of risk.
- The potential risks associated with the reinsurance agreement on the statutory solvency level;
- Disclosure of the methodology and assumptions used; and
- Sensitivity analysis under a number of scenarios and the associated likelihood of each.

8.3.2 Future projections

Each evaluation should provide a projection of the scheme's expected performance with and without the reinsurance agreement.

In addition, the results for the prior two years' reinsurance contracts should also be included.

The annexure to this guideline indicates the format in which this should be provided. This should be provided both as a hardcopy and electronically in an excel workbook, with all substantive workings, assumptions and formula included and explained.

The following are a few examples of the detailed assumptions, together with the motivation for these assumptions, to be documented:

- Description of data used;
- Membership adjustments;
- Price inflation;
- Age adjustments;
- Benefit changes;
- Utilisation changes;
- Accredited managed healthcare services;
- Non-healthcare expenditure;
- Investment return;
- Reserve loading;
- Demographic profile of member:
 - Average age;
 - Pensioner ratio (65+ years);
 - Average family size;
 - Chronic profile;
 - Income profiles;
- Subsidy (if any) assumptions and the impact thereof on the proposed contribution tables;
- Reinsurance assumptions:
 - Reinsurance quota share premiums;
 - Reinsurance stop loss premiums;
 - Reinsurance quota share recoveries;
 - Reinsurance stop loss recoveries (specified loss ratio);
 - Reinsurance stop loss recoveries (specified limit of indemnity);
 - Profit/(loss) i.r.o profit share arrangement;
 - Discounts received; and
 - Commissions on reinsurance arrangement.

This merely serves as a guide and is not in any way exhaustive of the assumptions that may be used. A detailed explanation of both the assumptions and the basis on impact of the assumptions on the financial position will prove

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useful. The annexures to this guideline should be amended to reflect the type of contract to be implemented. It should also report on the different scenarios contemplated.

8.3.3 Provisions for future claims

Where a provision made for the estimated cost of healthcare benefits that have occurred before the end of the accounting period but have not been reported to the medical scheme by that date, full details should be provided of:

- The method for calculating the provision (the methodology used); and
- An estimate of the expected provision for the first financial year of the agreement (should also be included in the projections).

If no provision for future claims is made the reasons should be stated.

8.3.4 Assessment of risk

This assessment should at least establish the following quantitatively:

- The specific risk(s) requiring reinsurance;
- Experience of the scheme demonstrating the difficulties/possible losses faced by the scheme as a result of the risks identified in (a) above;
- Projections of claims experience demonstrating associated variability of best/expected/worst case scenarios;
- The size of the risk relative to the scheme reserves;
- The size of the risk relative to the cost of reinsuring the risk;
- The probability of the risk occurring in future. The extent of the variability (i.e. the probability) needs to be quantified and the extent of the financial impact on the scheme's financial position;
- The exposure to high claims costs; and
- Analysis to include scenario-based reporting (i.e. present scenarios in respect of the variability in experience which mainly gives rise to the need for reinsurance).

Examples of evidence that could be helpful in this regard could include:

- Historic data on changes and trends in membership profile and the reasons why the next two years may show greater variability than can be allowed for in scheme design and pricing;
- Evidence on the financial impact of member "buy-downs" and the extent of the uncertainty that cannot be allowed for in scheme design and pricing;
- Why scheme membership will age, and why this cannot be allowed for in scheme design and pricing; and
- Historic data on HIV/AIDS prevalence and an indication of why future prevalence cannot be estimated and priced for.

It should be noted that it is not the mere presence of uncertainty that makes a risk unacceptable for a medical scheme, but the extent of the uncertainty. Hence what is required is a quantitative indication of the extent of any likely variation and the reasons why this cannot be dealt with through scheme benefit design, pricing and the solvency margin.

8.3.5 Pricing of the risk

The pricing of the reinsurance agreement needs to be motivated in relation to the size of each of the risks faced by the scheme.

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The analysis should demonstrate that the economic cost of the reinsurance agreement (i.e. the premiums and other costs) is appropriate in relation to the size of the risk insured (i.e. the level of cover).

The following needs to be made explicit in the pricing:

- Premium payments;
- The appropriate margin to provide for variances in claims costs and scheme specific risks;
- The appropriate margin to provide for reinsurance expenses;
- Brokerage commission payable;
- Investment earnings to be lost by the scheme;
- All potential hidden costs;
- Estimated loss of the underwriting surplus (in the case of proportional reinsurance);
- Any other costs that can be identified;
- Administration fees of any form (direct and indirect) paid to the reinsurer;
- All additional services provided by the reinsurer;
- Demonstrate the likelihood of payouts in terms of the proposed contracts to the scheme; and
- Demonstrate the extent of the risk relative to the contract proposed (i.e. the reasons why the next few months may show greater variability than can be allowed for in the benefit design and pricing).

The appropriateness of the price needs to be justified in the context of the likelihood of the occurrence of various claims scenarios relating to both claims size and frequency of claims.

An analysis of different levels of excess points, aggregate deductibles or upper limits also needs to be provided.

A full presentation of the variability associated with the projections, including scenarios, is required. The analysis also needs to test the sensitivity of certain assumptions.

8.3.6 Transfer of risk

No agreement will be supported by the Registrar if there is no reasonable transfer of risk and such transfer relates to an appropriate economic cost of the agreement.

The assessment needs to clearly demonstrate that a reasonable transfer of risk is to occur. In this respect, the exact terms of the agreement are important. Back dating of contracts may hinder such a transfer of risk.

Where the agreement includes measures for altering the terms of the contract, or even altering the benefits or contributions of the scheme during a financial year, a substantial reduction in the risk transfer usually occurs (as the scheme is effectively carrying the full risk).

All such conditions need to be made explicit in the evaluation, and taken into account in the assessment of the size of the risk reinsured and consequent price.

In the case of all cell captive arrangements the ultimate liability should rest with the insurer company.

8.3.7 Solvency

The evaluation needs to indicate the following:

- Reasons why the scheme's reserve levels are inadequate such that reinsurance is required;
- The impact the reinsurance contract will have on the accumulation of statutory reserves; and
- The protection of existing reserves is not in itself a valid reason for requiring reinsurance.

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8.3.8 Methodology

Each evaluation needs to be fully annotated with all substantial assumptions and formulae disclosed.

9. Annexures

Part A – Key results

Description	Historic		Projections	
	Previous R'000	Current R'000	Year 1 R'000	Year 2 R'000
Members				
Beneficiaries				
Average age				
Pensioner ratio				
Chronic profile				
Number of options				
Number of options included in reinsurance contract				
Net healthcare result excluding reinsurance				
Net healthcare result including reinsurance				
Accumulated funds at year end after re-insurance				
Solvency ratio				
per projections (before re-insurance)				
per projections (after re-insurance)				
per Regulation 29(3)*				

*In the case of a newly registered scheme

Part B – Prior financial results and future projections Consolidated statement of comprehensive income

	Notes	Historic		Projections	
		Previous Year R'000	Current Year R'000	Year 1 R'000	Year 2 R'000
Risk contribution income					
Relevant healthcare expenditure					
Net claims incurred					
Risk claims incurred					
Third party claims recoveries					
Accredited managed healthcare services (no risk transfer)					
Net income/expense on risk transfer arrangements					
Risk transfer arrangements					
Risk transfer arrangement fees/ premiums paid					
Recoveries from risk transfer arrangements					
Profit/ (loss) share arising from risk transfer arrangements					

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Gross healthcare result	
Net income/ (expense) on commercial reinsurance*	
Commercial reinsurance premiums paid	
Recoveries from commercial reinsurance	
Profit/ (loss) share arising from commercial reinsurance	
Broker service fees	
Administration expenses	
Net impairment losses on trade and other receivables	
Net healthcare result	
Other income	
Investment income	
Income from use of own facilities by external parties	
Grants	
Sundry income	
Other expenditure	
Asset management fees	
Cost incurred in provision of own facilities to external parties	
Interest paid on savings accounts	
Sundry expenses	
Net surplus/ (deficit) for the year	
Other comprehensive income	
Fair value adjustment on available-for-sale investments /investments held at FVOCI	
Reclassification adjustment**	
Land and buildings revaluation	
Other (specify)	
Total comprehensive income for the year	

* Projections before and after reinsurance should be provided.

**The reclassification adjustment relates to gain/loss on sale of available-for sale investments which is taken to the statement of comprehensive income within "Investment income".

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Part C – Scenario-based reporting

Please note that the tables are only illustrated examples and should be adjusted per individual reinsurance contract analysed.

Analysis to indicate the exposure to high cost claims; and to include scenario-based reporting (i.e. present scenarios in respect of the variability in experience which mainly gives rise to the need for reinsurance):

Worst Case

Scenario 1	Distribution / Frequency	Probability	Mean/Average

Expected Case

Scenario 2	Distribution / Frequency	Probability	Mean/Average

Best Case

Scenario 3	Distribution / Frequency	Probability	Mean/Average