

Amount

Unit

Cost of Sales

Unit

Book value

Approved Investments

MF - Gift/Govt. Sec/Liquid Schemes

EGMF

0

0

0

Total (A)

0

0

0

MF - (under Insurers Promoter Group)

EMPG

0

0

0

Total (B)

0

0

0

Total (A+B)

Other Investments

MF - Debt/Income/Serial/Liquid Funds

OMGS

0

0

0

Total (C)

0

0

0

MF - (under Insurers Promoter Group)

OMPG

0

0

0

Total (D)

0

0

0

Total (C+D)\_\_\_\_\_

Total (A+B+C+D)\_\_\_\_\_

**CERTIFICATION**

Certified that the information given herein are correct and complete to the best of my knowledge and belief and nothing has been concealed or suppressed.

Signature.....

Date..... Full Name & Designation.....

Note.

- 1. FORM 5A shall be prepared in respect of each fund.
- 2. Each sub-total of FORM 5A shall be linked to its corresponding head in FORM 5.
- 3. Other investments are as permitted under sections 27A (2) and 27B (3).
- 4. Guidelines on preparation of FORM 5 should be strictly followed.]

**FORM 6**

**Company Name & Code:**

**Statement as on:**

**Certificate under Section 28 (2a)/28 (2b)/28b (3) of the Insurance Act, 1938**

Periodicity of submission: Quarterly Name of the Fund.....

*Rs. in Lakhs*

Investment Particulars

Under the Custody of

Bank (RS)\*

Self (RS)

Others (RS)\*

Total (RS)

Share Holders

Policy Holders

Share Holders

Policy Holders

Share Holders

Policy Holders

SH + PH

1 Govt. Sec.

2 Govt. Sec. or Other Approved Securities

3 Investment subject to Exposure Norms

a. Housing & Loans to State Govt, for Housing & FFE

b. Infrastructure Investments

c. Approved Investments

d. Other Investments

CHAIRMAN CHIEF EXECUTIVE OFFICER DIRECTOR

Note.

1. Custodian should certify that he is not disqualified under SEBI (Mutual Fund) Regulations, 1996 as amended from time to time.
2. Value of the securities shall be as per Guidelines.
3. In the case of Life Insurance Business, FORM 6 shall be prepared in respect of each fund.
4. The values under Certificate should be adjusted for Purchase/Sale of Investments purchased and awaiting settlement. A reconciliation to this effect should be attached to the Certificate.

**FORM 7**

**Company Name & Code:**

**Statement as on:****Confirmation of Investment Portfolio**

Periodicity of submission: Quarterly

No.	Particulars	Confirmation (Yes/No)
1.	Details of Approved Investments/Other Investments which have matured for payment and maturity amount is outstanding along with particulars of defaulted amount and period for which said default has continued:	
2.	Any Investment as at (1), which subsequent to maturity have been rolled over:	
3.	In respect of Investments where periodic income have fallen due, details of interest payment in default, along with period for which such default have persisted:	
4.	Details of steps taken to recover the defaulted amounts, and the provisioning done/proposed in the accounts against such defaults:	

**CERTIFICATION**

Certified that the information given herein are correct and complete to the best of my knowledge and belief and nothing has been concealed or suppressed.

Datesignature.

Full Name &amp; Designation

**Note.** If any of confirmation is in the affirmative, details be provided.

FORM 7A

Company Name &amp; Code:

Statement as on:

Details of Investment Portfolio

Periodicity of submission: Quarterly Name of the Fund



## CERTIFICATION

Certified that the information given herein are correct and complete to the best of my knowledge and belief and nothing has been concealed or suppressed.

Date..... Signature.

Full Name & Designation..

Note.

A. Category of Investment (COI) shall be as per INV/GLN/001/2003-04.

B. Form 7A shall be submitted in respect of each fund.

C. Classification shall be as per F&A-Circulars-169 Jan.-07 Dated 24-01-2007.]

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**2** . Subs. by Notification No. IRDA/Reg./16/74/2013, dated 16-2-2013 (w.e.f. 18-2-2013).

**3** . Subs. by Notification No. IRDA/Reg./16/74/2013, dated 16-2-2013 (w.e.f. 18-2-2013).

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### **Appendix XII Appendix XIII Insurance Regulatory and Development Authority (Life Insurance-Reinsurance) Regulations, 2013 Insurance Regulatory and Development Authority (General Insurance - Reinsurance) Regulations, 2013**

***F. No. IRDA/Notification/17/75/2013.***

In exercise of the powers conferred by *section 114A of the Insurance Act, 1938*, read with *sections 14 and 26 of the Insurance Regulatory and Development Authority Act, 1999*, the Authority, in consultation with the Insurance Advisory Committee hereby makes the following regulations, namely:

#### ***1. Short title and commencement.***

- a. These regulations may be called the Insurance Regulatory and Development Authority (Life Insurance - Reinsurance) Regulations, 2013.
- b. They shall come into force on the date of their notification in the Official Gazette.

#### ***2. Definitions. In these regulations, unless the context otherwise requires.***

- a. Act means the *Insurance Act 1938* (4 of 1938);
- b. Authority means the Insurance Regulatory and Development Authority established under sub-section (1) of *Section 3 of the Insurance Regulatory and Development Authority Act 1999* (41 of 1999);
- c. Cedant is an insurer who enters into a reinsurance contract or a reinsurer who enters into a retrocession contract;
- d. Cession means the part of insurance passed to a reinsurer by the insurer which issued a policy to the original insured;
- e. Fronting means a process by which a primary insurer cedes most of or all of the insurance risk to a reinsurer
- f. Facultative means the reinsurance of a part or all of a single policy in which cession is negotiated separately and that the reinsurer and the insurer have the option of accepting or declining each individual submission;
- g. Reinsurance contract is the legally binding document on all the parties that provide a complete, accurate and definitive record of all the terms and conditions and other provisions of the reinsurance contract.
- h. Retrocession means the transaction whereby a reinsurer cedes to another insurer or reinsurer all or part of the reinsurance it has previously assumed;
- i. Retention means the portion of the risk which an insurer assumes for his own account.
- j. Indian re-insurer means an Indian insurance company which has been granted a certificate of registration under sub-section (2A) of section 3 by the Authority to carry on exclusively the reinsurance business in India;

k. pool means any joint underwriting operation of insurance or reinsurance in which the participants assume a predetermined and fixed interest in all business written.

l. Treaty means a reinsurance arrangement between the insurer and the reinsurer, usually for one year or longer, which stipulates the technical particulars and financial terms applicable to the reinsurance of some class or classes of business;

m. Words and expressions used and not defined in these regulations but defined in the *Insurance Act, 1938* (4 of 1938) or *Insurance Regulatory and Development Authority Act, 1999* (41 of 1999), shall have the meanings respectively assigned to them in those Acts as the case may be.

### **3. Reinsurance with Indian reinsurers.**

a. In accordance with Section 101A of the Insurance Act, 1938, every insurer shall reinsure with Indian reinsurers such percentage of the sum assured on each policy as may be specified by the Authority by notification.

b. Provided that no percentage so specified shall exceed thirty percent of the sum assured on such policy and

c. Also different percentages may be specified for different classes of insurance and

d. Also specify the proportions in which the said percentage shall be allocated among Indian reinsurers.

e. For the purpose of this regulation, an Advisory Committee shall be constituted in accordance with the Section 101B of the Insurance Act, 1938 consisting of not more than five persons having special knowledge and experience of life insurance business.

### **4. Procedure to be followed for reinsurance arrangements.**

a. The Reinsurance Programme of every insurer/reinsurer shall be guided by the following objectives to:

i. Maximize retention within the country;

ii. Develop adequate capacity;

iii. Secure the best possible protection for the reinsurance costs incurred

iv. Ensure that the reinsurance policy does not lead to fronting of insurance business;

v. Simplify the administration of business.

b. Every life insurer shall draw up a programme of reinsurance in respect of lives covered and the profile of such a programme, duly certified by the Appointed Actuary and approved by the Board of Director, shall be filed with the Authority, at least forty five days before the commencement of each financial year, by the insurer, which shall include:

i. For new insurers: their proposed reinsurance arrangements in relation to their capitalisation, proposed classes of business and retentions; their reinsurers and ratings for the past five years; and control systems.

ii. For existing insurers:

1. The proposed reinsurance arrangements in relation to their capitalisation, proposed classes of business and retentions; their reinsurers, shares and ratings for the past five years and

2. An annual review of existing reinsurance arrangements, including:

a. In relation to the risk exposures for each class of insurance business written: Retention limits, comparison to the Regulatory Reporting Retention Limits in Regulation 6, and the types of cover provided by treaties;

b. Reinsurance control systems for monitoring exposures and making cessions and claims recoveries;



c. Major reinsurers, i.e. reinsurers accounting for more than 20 per cent of premiums ceded under any one reinsurance contract and reinsurers accounting for more than 5 per cent of premiums ceded in total.

d. The name (s) of the reinsurer (s) with whom the insurer has the reinsurance arrangements, their shares and their rating for the past five years.

Provided that the Authority may, if it considers necessary, elicit from the insurer any additional information, from time to time, and the insurer shall furnish the same to the Authority forthwith.

c. The insurer shall ensure that the reinsurance arrangements in respect of catastrophe risks, using various realistic disaster scenario testing, are adequate and approved by the Board of Directors before filing the same with the Authority along-with the reinsurance programme.

d. The insurer shall determine the credit risk and concentration risk of the reinsurance arrangements and explain the measures taken to mitigate such risks, if any, in the reinsurance programme.

e. The Authority shall examine the reinsurance programme, the retention policy details as in Regulation 5 and the detailed report on regulatory reporting retention limits, if required under Regulation 6, submitted along with the reinsurance programme to ensure, amongst others, that the:

i. The objectives in sub-regulation 4 (a) are met;

ii. The insurers financial strength, the reinsurance policy, underwriting capacity, volume of the business etc are considered in arriving at the retention limits.

f. If the reinsurance programme of the insurers is found to be inconsistent with the overall objective of this Regulation, the Authority for the purposes of calculating solvency, may allow a lesser credit for reinsurance in the sum-at-risk factor.

g. For the purpose of (e) and (f), the Authority shall examine all the necessary justifications, the technical & financial strength of the insurer, all the supporting data and the reasons why such an arrangement would be required as submitted in the reinsurance programme.

h. The Authority shall scrutinize such a programme of reinsurance as above, and may suggest changes, if it consider necessary, and the insurer shall incorporate such changes forthwith in his programme.

### **5. Retention Policy.**

a. Every insurer shall build the retention capacity within the company and formulate suitable retention policy for each type of product/risk on an ongoing basis and justify on an ongoing basis such retention policy in accordance with the emerging claims experience, financial standing, underwriting capacity etc. in the annual reinsurance programme submitted to the Authority.

b. The above such retention policy of every insurer shall:

i. aim at retaining the maximum premium earned in India, maximizing the retention across products commensurate with his financial strength & volume of business and

ii. establish the above in the reinsurance programme as referred to in sub-regulation 4 (b).

c. Insurers may be allowed to reinsure on quota share:

i. in the initial two years of starting operations for health insurance business and group term insurance business and

ii. in the initial two years of introducing a new risks/product for health insurance business and group term insurance business

Provided the minimum retentions in all such cases shall be at least as referred in Table: 6 (1) applicable to health insurance business and group term insurance business.

d. The Authority may require an insurer to further justify its retention policy and may give such directions as considered necessary.

### 6. Regulatory Reporting Requirements.

a. If the retention levels of such retention policy for mortality / morbidity risks is less than the regulatory reporting retention limits stated in Table: 6 or the total reinsurance premium to the total premium received under a particular product exceeds 2% for all saving products and 30% for all term insurance/health products, in all such cases, the insurers shall report to the Authority along with the reinsurance programme for approval a detailed working for each product on:

- i. The underwriting processes;
- ii. Claims fluctuations and claims experience;
- iii. Current retention levels;
- iv. Their financial strength;
- v. Volume of business;
- vi. Capital requirements;
- vii. Past claims payment history of the reinsurers;
- viii. Capacity building measures taken in terms of building up capacity in underwriting, claims handling, risk management, pricing, valuation, etc. since introducing the risk; etc

**table: 6 Regulatory Reporting Retention Limits**

S. No	Age of the insurer or year in which the risk is introduced*	Type of the products or riders	Retention limit on the sum at risk. Rs.	
1	0 to 3 years both inclusive	Pure protection products like term insurance, personal accident products etc	5 lakhs	
		All kinds of savings products like endowment , ULIPS etc	10 lakhs	
			All kinds of group protection products	5 lakhs
		All kinds of health insurance products,	1 lakhs	
	4 to 7 years both inclusive	Pure protection products	10 lakhs	

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		except personal accident products.			like term insurance, personal accident products etc		
		All kinds of savings products like endowment , ULIPS etc	20 lakhs		All kinds of group protection products	10 lakhs	
		All kinds of health insurance products, except personal accident products.	3 lakhs 3				
		All kinds of savings products like endowment , ULIPS etc	30 lakhs		All kinds of group protection products	15 lakhs	
		All kinds of health insurance products, except personal accident products.	3 lakhs 4				
		All kinds of savings products like endowment , Unit linked products etc	30 lakhs		All kinds of group protection products	20 lakhs	
		All kinds of health insurance products, except personal accident products.	4 lakhs 5				

\*\* It the insurer is introducing the risk for the first time, in such cases the limits in # 1 would apply irrespective of the age of the insurer.

Provided further that the Authority shall review the Regulatory Reporting Retention Limits every two years and if necessary, may revise these limits upwards from time to time.

**7. Submissions of Reinsurance Treaties.**

- a. All reinsurance arrangements shall be documented and filed with the Authority within 30 days of commencement of the financial year.
- b. Within 30 days of the commencement of the financial year, every insurer shall also file with the Authority a copy of every reinsurance treaty contract in respect of that year together with the list of reinsurers, their ratings and their shares in the reinsurance arrangement. Provided that any change in the terms and conditions of the reinsurance treaty shall be filed with the Authority within 15 days of such changes.

**8. Placement of Reinsurance Business.**

- a. Insurers shall place their reinsurance business outside India with only those reinsurers who have over a period of the past five years counting from the year preceding for which the business has to be placed, enjoyed a credit rating of at least BBB (with Standard & Poor) or equivalent rating of any other international rating agency.
- b. Provided that placement of business by the insurer with any other reinsurer shall be with the prior approval of the Authority.
- c. Provided further that no programme of reinsurance shall be on original premium basis.
- d. Provided further that no life insurer shall have reinsurance treaty arrangement with its promoter company or its associate/group company, except on terms which are commercially competitive in the market and with the prior approval of the Authority, which shall be final and binding.
- e. The life insurers shall, before placing the business with the reinsurers, consider past claims performance of the reinsurers, as available, while accepting their participation in the reinsurance programme.

**9. Submission of Returns.**

- a. Every insurer shall be required to submit to the Authority information and returns relating to its reinsurance transactions as per Annexure 1 and in such other forms as the Authority may require or specify from time to time

*Explanation:* All the life insurers shall furnish the information and returns required as per Annexure 1:

- i. In the case of forms which are to be submitted on an annual basis, within 45 days from the close of each financial year.
- ii. In all other cases, within 15 days from the close of each quarter/half-year as the case may be.

**10. Inward Reinsurance Business.**

- a. Every insurer wanting to write inward reinsurance business shall seek specific approval of the Authority providing all the business projections and all documentation as may be required for such business.
- b. Every insurer wanting to write inward reinsurance business shall have a well-defined underwriting policy approved by its Board of Directors for underwriting inward reinsurance business.
- c. An insurer shall file with the Authority, at least forty five days before the commencement of each financial year, its underwriting policy stating the classes of business, geographical scope, underwriting limits and profit objective.
- d. An insurer shall ensure that decisions on acceptance of reinsurance business are made by persons with adequate knowledge and experience, preferably in consultation with the insurers Appointed Actuary.
- e. An insurer shall also file with the Authority any changes to the underwriting policy as and when a change is made duly approved by its Board of Directors.
- f. An insurer shall show all the receipts and payments like premiums, claims, etc. relating to reinsurance business accepted separately from direct insurance business.

## 11. Repeal and Savings.

a. These Regulations repeal the Insurance Regulatory and Development Authority (Life Insurance - Reinsurance) Regulations, 2000.

b. Unless otherwise provided by these regulations, nothing in these regulations shall deem to invalidate the arrangements entered prior to these regulations coming into force.

IRDA (General Insurance - Re-Insurance) Regulations, 2013

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### **F. No. IRDA/Reg./5/63/2013.**

In exercise of the powers conferred by *section 114A of the Insurance Act, 1938, sections 14 and 26 of the Insurance Regulatory and Development Authority Act, 1999*, the Authority, in consultation with the Insurance Advisory Committee, hereby makes the following regulations, namely:

#### **1. Short title and commencement:**

- (1) These regulations may be called the Insurance Regulatory and Development Authority (General Insurance - Reinsurance) Regulations, 2013.
- (2) These Regulations replace the Insurance Regulatory and Development Authority (General Insurance - Reinsurance) Regulations, 2000.
- (3) These regulations shall come into force on the date of their notification in the Official Gazette.

#### **2. Definitions.**

In these regulations, unless the context otherwise requires:

- a) Act means the *Insurance Regulatory and Development Authority Act 1999* (41 of 1999);
- b) Authority means the Insurance Regulatory and Development Authority established under sub-section (1) of Section 3 of the Act;
- c) Cedant is an insurer who enters into a reinsurance contract or a reinsurer who enters into a retrocession contract;
- d) Cession means the part of insurance passed to a reinsurer by the insurer which issued a policy to the original insured or part of contract ceded by a reinsurer to a retrocessionaire;
- e) Cover note is a written document issued by the reinsurer or the reinsurance broker authorized by it, detailing the contract terms and conditions of the contract and the details of the percentage of risk placed with each reinsurer.
- f) Facultative means the reinsurance of a part or all of a single policy in which cession is negotiated separately and that the reinsurer and the insurer have the option of accepting or declining each individual submission;
- g) Indian re-insurer/s means the insurer/s who carry on exclusively reinsurance business and is notified in this behalf by the Authority under *Sec. 101A of Insurance Act*.
- h) Pool means any joint underwriting operation of insurance or reinsurance in which the participating insurer/s or reinsurer/s assume a predetermined and fixed interest in all business written.
- i) Retrocession means the transaction whereby a reinsurer cedes to another insurer or reinsurer all or part of the reinsurance it has previously assumed;
- j) Retention means the portion of the risk which an insurer assumes for his own account;
- k) Reinsurance contract is the legally binding document on all the parties that provide a complete, accurate and definitive record of all the terms and conditions and other provisions of the reinsurance contract.

- l) Treaty means a reinsurance arrangement between the insurer and the reinsurer, usually for one year or longer, which stipulates the technical particulars and financial terms applicable to the reinsurance of some class or classes of business;
- m) Words and expressions used and not defined in these regulations but defined in the *Insurance Act, 1938* (4 of 1938) or the General Insurance Business Nationalisation Act, 1972 (57 of 1972) or *Insurance Regulatory and Development Authority Act, 1999* (41 of 1999), rules made there under shall have the meanings respectively assigned to them in those Acts or rules as the case may be.

## CHAPTER II

### 3. Procedure to be followed for Reinsurance Arrangements.

- (1) The Reinsurance Programme of every (re) insurer shall be guided by the following objectives to:
  - a) Maximize retention within the country;
  - b) Develop adequate capacity;
  - c) Secure the best possible protection for the reinsurance costs incurred;
  - d) Simplify the administration of business.
- (2) Every (re) insurer shall maintain the maximum possible retention commensurate with its financial strength, quality of risks and volume of business. The Authority may require an (reinsurer to justify its retention policy and may give such directions as considered necessary in order to ensure that the Indian (re) insurer is not merely fronting for a foreign insurer.
- (3) Every insurer shall cede such percentage of the sum assured on each policy for different classes of insurance written in India to the Indian reinsurer/s as may be specified by the Authority in accordance with the provisions of Part IVA of the *Insurance Act, 1938*.
- (4) The reinsurance programme of every (re) insurer shall commence from the beginning of every financial year. Every (re) insurer shall submit to the Authority, his reinsurance programme for the forthcoming year, 45 days before the commencement of the financial year. Notwithstanding what is stated above, the Authority, if it considers necessary, may direct the (re) insurer to carry out changes to the reinsurance programme filed with it and the (re) insurer shall incorporate such changes forthwith in their reinsurance programme.
- (5) The (re) insurers shall ensure that the reinsurance arrangements in respect of catastrophe accumulations, using various realistic disaster scenario testing are adequate and approved by their Board of Directors before filing the same with the Authority along-with their reinsurance programme.
- (6) Within 30 days of the commencement of the financial year, every (re) insurer shall file with the Authority a copy of every reinsurance treaty contract wording and excess of loss cover covernote in respect of that year together with the list of reinsurers their ratings and their shares in the reinsurance arrangement. All reinsurance arrangements must be documented and filed with the Authority within 30 days of commencement of the financial year.
- (7) The Authority may call for further information or explanations in respect of the reinsurance programme of an (re) insurer and may issue such direction, as it considers necessary;
- (8) Every (re) insurer shall file with the Authority any new reinsurance arrangement, giving full details, documentation, reasons for such an arrangement together with the approval of the Board of Directors within 15 days of holding the Board meeting. The (re) insurer shall further ensure that the renewal of such a reinsurance arrangement coincides with financial year.
- (9) (Re) Insurers shall place their reinsurance business outside India with only those reinsurers who have over a period of the past five years counting from the year preceding for which the business has to be placed, enjoyed a credit rating of at least BBB (with Standard & Poor) or equivalent rating of any other international rating agency. The (re) insurers shall consider past claims performance of the reinsurers while accepting their participation in the reinsurance programme. Placements with other reinsurers shall require the approval of the Authority. (Re) Insurers may also place reinsurances with Lloyds syndicates taking care to limit placements with individual syndicates to such shares as are commensurate with the capacity of the syndicate.

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- (10) The Indian Reinsurer shall organise domestic pools for reinsurance surpluses in fire, marine hull and other classes in consultation with all insurers on basis, limits and terms which are fair to all insurers and assist in maintaining the retention of business within India at such percentages as the Authority may specify from time to time. The arrangements so made shall be submitted to the Authority within three months of the formation of such pools, for approval.
- (11) Surplus over and above the domestic reinsurance arrangements class wise can be placed by the (re) insurer independently with any of the reinsurers complying with sub-regulation (7) subject to the following limits of the total reinsurance premium ceded outside India being placed with any one reinsurer:

Rating of Reinsurers (as per Standard & Poor and applicable to other equivalent international rating agencies)	Limit of cession allowed under Regulation 3 (11)
BBB of Standard & Poor	10%
Greater than BBB and upto & including AA of Standard & Poor	15%
Greater than AA upto & including AAA of Standard & Poor	20%

Where it is necessary in respect of specialised insurance to cede a share exceeding such limit to any particular reinsurer, the (re) insurer may seek the specific approval of the Authority giving reasons for such cession.

- (12) Every insurer shall offer an opportunity to the Indian Reinsurer to participate in its facultative and treaty surpluses before placement of such cessions outside India. The Indian reinsurer shall set up appropriate market-wide reinsurance arrangements for this purpose.
- (13) Every (re) insurer shall be required to submit to the Authority information and returns relating to its reinsurance transactions in such forms as the Authority may specify or require together with its annual accounts.

#### **4. Inward Reinsurance Business.**

- (1) Every (re) insurer wanting to write inward reinsurance business shall have a well-defined underwriting policy approved by its Board of Directors for underwriting inward reinsurance business.
- (2) The (re) insurer shall file with the Authority, at least forty five days before the commencement of each financial year, its underwriting policy stating the classes of business, geographical scope, underwriting limits and profit objective.
- (3) The (re) insurer shall ensure that decisions on acceptance of reinsurance business are made by persons with necessary knowledge and experience.
- (4) The (re) insurer shall also file any changes to the underwriting policy as and when a change is made duly approved by its Board of Directors.

#### **5. Outstanding Loss Provisioning.**

- (1) Every (re) insurer shall make outstanding claims provisions for every reinsurance arrangement accepted on the basis of loss information advices received from Brokers/Cedants and where such advices are not received, on an actuarial estimation basis.
- (2) In addition, every (re) insurer shall make an appropriate provision for incurred but not reported (IBNR) claims on its reinsurance accepted portfolio on actuarial estimation basis.

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### **Appendix XIV The Insurance (Amendment) Bill, 2008**

The Insurance Laws (Amendment) Bill, 2008, with a view to amend the *Insurance Act 1938*, the *General Insurance Business (Nationalisation) Act, 1972* and the *Insurance Regulatory and Development Authority Act, 1999* was introduced in the Rajya Sabha on the 22nd December, 2008. The Bill as introduced, has been referred to the Standing Committee on Finance for examination and report. The Standing Committee submitted its report to Parliament on 13th December, 2011. There are a total of 111 clauses in the Insurance Laws (Amendment) Bill, 2008.

Some of the highlights of the bill are below:

(Permitting the foreign re-insurers to open branches in India.

(Health Insurance Business to be recognised as a separate line of business and it proposes to define Health Insurance Business. (Clause 2 (6C)) The Bill proposes to fix the minimum capital for health insurance business at Rs. 500 million. (Rupees five hundred million). It has also been prescribed that foreign reinsurance companies operating as reinsurers through their branches in India shall have a minimum net owned funds of Rs. 50 billion (Rupees fifty billion). (Clause-6).

(It amends the definition Actuary.

(The Bill proposes to amend the definition of the Indian Insurance Company as a public limited company in which the foreign equity does not exceed forty nine percent. (At present twenty six per cent). (Clause-2 (7A))

(It allows the entry of Lloyds of London in the insurance business in India as a foreign company in joint venture with Indian partner.

(The Bill seeks to allow the Insurance companies to issue other forms of securities as may be approved by the



## APPENDIX XIV

IRDA. (as opposed to only equities) (Clause 6A).

(The Bill proposes to allow the Indian promoters to hold up to 100% in Indian Insurance Companies. At present no Indian Promoter shall hold more than twenty six per cent in an Indian Insurance Company beyond ten years from the date of commencement of business. (Clause 6AA)

(The Bill enables sanction of loans and advances as per norms to be specified by the Authority and the scheme approved by the Board of Directors of the insurer. (Clause 29).

(The Bill prescribes minimum business in third party risks of motor vehicles for general insurance companies. (Clause 32D).

(It recognizes partial assignments of insurance policies (Clause 38)

(It proposes to recognise two types of nominees a) a beneficial nominee b) a collector nominee. (Clause 39).

(The power to appoint agents is proposed to give insurance companies subject to the qualifications prescribed by the IRDA. (Clause 42)

(The Bill proposed to amend the section 45 to state that an insurer cannot deny a claim under an insurance policy after five years for any reason whatsoever i.e., even if the policy holder has fraudulently made a statement on material fact.

(The penalties for non-compliance with provisions in the *Insurance Act* have been significantly increased.

(It proposed to recognise Securities Appellate Tribunal (SAT) as the Appellate Authority against the order passed by IRDA.

(It prohibits any insurer from investing funds of policy holders outside India.

APPENDIX XIV

(It omits provisions related to Tariff Advisory Committee in view of the detariffing of rates and premium.

(It empowers the Life Insurance Council and General insurance Council to frame bye laws for elections, meetings and collection of fees from its members.

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End of Document

## **APPENDIX XV**

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### **Appendix XV Financial Sector Legislative Reforms Commission**

The Financial Sector Legislative Reforms Commission (FSLRC) is a body set up by the Government of India, Ministry of Finance, on 24 March, 2011, to review and rewrite the legal-institutional architecture of the Indian financial sector. The setting up of the Commission was the result of a felt need that the legal and institutional structures of the financial sector in India need to be review and recast in tune with the contemporary requirement of the sector.

The institutional framework governing the financial sector has been built up over a century. There are over sixty Acts and multiple Rules and Regulations that govern the financial sector in India. The piecemeal amendments have generated unintended outcomes including regulatory gaps, overlaps, inconsistencies and regulatory arbitrage. The Commission would simplify and rewrite financial sector legislations, including subordinate legislations, to achieve harmony and synergy among them.

The Terms of Reference of the Commission include the following:

(a) Examining the architecture of the legislative and regulatory system governing the financial sector in India.

(b) Examine if legislation should mandate statement of principles of legislative intent behind every piece of subordinate legislation in order to make the purposive intent of the legislation clear and transparent to uses of the law and to the courts.

(c) Examine if public feedback for draft subordinate legislation should be made mandatory, with exception for emergency measures.

(d) Examine prescription of parameters for invocation of emergency powers where regulatory action may be taken on ex parte basis.

(e) Examine the interplay of exchange controls under

*FEMA* and FDI Policy with other regulatory

## APPENDIX XV

regimes within the financial sector.

(f) Examine the most appropriate means of oversight over regulators and their autonomy from government.

(g) Examine the need for re-statement of the law and immediate repeal of any out-dated legislation on the basis of judicial decisions and policy shifts in the last two decades of the financial sector post-liberalisation.

(h) Examination of issues of data privacy and protection of consumer of financial services in the Indian market.

(i) Examination of legislation relating to the role of information technology in the delivery of financial services in India, and their effectiveness.

(j) Examination of all recommendations already made by various expert committees set up by the government and by regulators and to implement measures that can be easily accepted.

(k) Examine the role of State Governments and legislatures in ensuring a smooth inter-State financial services infrastructure in India.

(l) Examination of any other related issued.

The object of setting up of the Commission is to re-write and clean up the financial sector laws. This would bring the laws in line with the requirements of the sector doing away with the ambiguity and complexity crept in these old legislations with amendments and changes made in them over the years.

### **Financial Regulatory Architecture**

At present, Indian law features tight connections between several agencies. The present work allocation, between RBI, SEBI, IRDA, Pension Fund Regulatory and Development Authority (PFRDA), Forward Market Commission (FMC) was not designed. The present arrangement has gaps where no Regulator is in charge. It also contains overlaps where conflicts between laws have consumed the energy of top economic policy makers. The Commission noted, when the true activities a financial firm are split up across many entities, each of which has oversight of different supervisor, no one supervisor has a full picture of the risks that are present.

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The Commission proposes a financial regulatory architecture featuring seven agencies. This proposal features seven agencies and is hence not a unified financial regulator proposal. The special features are the following:

- (a) The existing RBI will continue to exist, though with modified functions.
- (b) The existing SEBI, FMC, IRDA and PFRDA will be merged into a new unified agency.
- (c) The existing Securities Appellate Tribunal (SAT) will be subsumed into the Financial Services Appellate Authority (FSAT).
- (d) The existing Deposit Insurance and Credit Guarantee Corporation of India (DICGC) will be subsumed into the Resolution Corporation.
- (e) A new Financial Redressal Agency (FRA) will be created.
- (f) A new Debt Management Office will be created.
- (g) The existing FSDC (Financial Stability and Development Council) will continue to exist, though with modified functions and statutory framework.

The functions of each of these seven proposed agencies are as follows:

(a) Reserve Bank of India: It is proposed that RBI will perform three functions. They are monetary policy, regulation and supervision of banking in enforcing the proposed consumer protection law and the proposed micro-prudential law, and regulation and supervision of payment systems in enforcing these two laws.

(b) Unified Financial Agency: The Unified Financial Regulatory Agency (UFRA) would implement the consumer law and micro-prudential law for all financial firms other than banking and payments. It would also take over the work on organised financial trading from RBI in the areas connected with the Bond-Currency-Derivatives Nexus, and from FMC for commodity futures, thus giving a unification of all organised financial trading including equities, government bonds, currencies, commodity futures and corporate bonds. The unification of regulation and supervision of

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financial firms such as mutual funds, insurance companies, and a diverse array of firms which are not banks or payment providers, would yield consistent treatment in consumer protection and micro-prudential regulation across all of them.

(c) Financial Sector Appellate Tribunal: The SAT will be subsumed in FSAT, which will hear appeals against RBI for its regulatory functions, the unified financial agency, decisions of the FRA and some elements of the work of the Resolution Corporation.

(d) Resolution Corporation: The present Deposit Insurance and Credit Guarantee Corporation of India (DICGC) will be subsumed into the Resolution Corporation which will work across the financial system.

(e) Financial Redressal Agency: This is a new agency which will have to be created in implementing this financial regulatory architecture. It will setup a nationwide machinery to become a one stop shop where consumers can carry complaints against all financial firms.

(f) Public Debt Management Agency: An independent debt management office is envisioned.

(g) Financial Stability and Development Council: Finally, the existing FSDC will become a statutory agency and have modified functions in the fields of systemic risk and development.

The main result of the work of the commission is the draft Indian Financial Code, a single unified and internally consistent draft law that replaces a large part of the existing Indian legal framework governing finance. The draft Code is comprised of 450 (four hundred and fifty) clauses.

Composition of the Board of the Regulator:

The Commission suggests that the Board of a Regulator should have four types of members:

(a) Chairperson: There will be one chairperson of the Board of a regulator. He/she will be responsible for the functioning of the Board and the office of the Regulator.

(b) Executive Members: Some members will be designated as Administrative Law Members. They will be responsible for reviewing the performance and carrying out the oversight of a designated set of employees of the regulator, referred to as administrative law officers; and reviewing the decisions of the administrative law officers.

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The executive members will devote their entire time to the management of the Regulator.

(c) Non-Executive Membersthese members who are experts in different fields and are appointed to the Board on part-time basis.

(d) Government Nomineesthese members are ex officio members of the Board.

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