1.1. DEVELOPMENT OF INSURANCE IN INDIA

In India, an insurance has prevailed its presence in ancient history in the script of Manu (*Manusmriti*), Yagnavalkya (*Dharmasastra*) and Kautilya (*Arthasastra*). These literatures explains amalgamating resources which in turn can be re-distributed during catastrophes such as fire, epidemics and scarcity. Indian prehistoric has well-preserved the original signs of insurance in the form of marine trade finance and mover’s agreements.

The modern form of insurance activities started in 1818. A British company, the Oriental Life Insurance Society was formed to afford relief to the distressed relatives of Europeans. Later, due to persuasions by one of its directors named; Shri Babu Muttyal Seal, Indians were also covered by the company. The company treated Indian lives as sub-standard and charged extra premium. However, this company became futile in 1834. In 1829 in Madras, the Madras Equitable started transaction of life insurance business. 1870 witnessed the performance of the British Insurance Act and the Bombay Mutual (1871), Oriental (1874) and Empire of India (1897) were established in Bombay. However, during this period, foreign insurance offices dominated and executed good business in India. These foreign insurers were Albert Life Assurance, Royal Insurance, Liverpool and London Globe Insurance. The Indian offices were facing up hard struggle with these the foreign insurers.

In 1912, the first statutory measure to regulate life insurance business was endorsed in the form of The Indian Life Assurance Companies Act. In 1914, the Government of India came in to publish the earnings of insurance corporations in India. In 1928, The Indian Insurance Companies Act was passed to empowered the Government to accumulate the statistical evidence regarding both life and non-life business executed in India by Indian and foreign insurer. In 1938, with an aim to safeguard the interest of insured, the former legislation was consolidated and modified by the Insurance Act 1938 with complete provision for effective regulation of insurers’ activities. This Act of 1938 through numerous modifications over a period of time has provided
conclusive section of legislation on insurance to regulate both *Life Insurance*\(^1\) and general insurance. General insurance is defined to take in to account “*Fire Insurance Business*\(^2\), “*Marine Insurance Business*\(^3\) and “*Miscellaneous Insurance Business*\(^4\), whether alone or combination of them. The Insurance Act, 1950, eliminated the major agencies. However, insurance companies were large in number and the competition level was high. Allegations of unfair trade practices were also reported. Therefore, the Government of India step on to nationalize the insurance business in India.

On 19\(^{th}\) January, 1956, an ordinance was issued and the Life Insurance Sector was nationalized establishing Life Insurance Corporation of India through absorbing 154 Indian, 16 non-Indian insurers and 75 provident societies. Till late 90s, The LIC enjoyed the monopoly in insurance business and finally the insurance industry was reopened for private corporates.

In 1993, to suggest recommendations to restructure the Indian insurance sector, the Government formed a commission under the chairmanship of R N Malhotra, former Governor of RBI. The restructurings was aimed to create a more competent and modest financial system appropriate for the Indian economy and identifying the insurance as significant portion of whole financial system of India. In January 1994, the committee submitted its report and made strategic recommendations to privatize of the insurance sector and setting up of an insurance Regulatory Authority. They also specified that foreign companies would be permissible to enter through joint venture with floating Indian partner.

### 1.2. KEY LEGISLATIONS OF INSURANCE IN INDIA

#### 1.2.1. Indian Life Assurance Companies Act 1912

The present form India’s life insurance business obliged its heritages to other countries. Oriental Life Insurance Company was first to establish as insurance company in India. In 1912, with an aim to control and regulate the life insurance business, the first statutory measure was announced and *Indian Life Assurance Companies Act* was accepted. Prior to 1912 there was no single legislation for regulation of insurance businesses in India.
Though, entire insurance companies came into existence during this period to satisfy the necessities of the Non – Indians. However, with compared to others, Indians had to pay greater premium. For the first time in India, The Indian Life Assurance Companies Act 1912 made it mandatory to get certification of premium rate table and periodical assessments of companies from an actuary. However, this Act kept different treatment for foreign and Indian companies in several extents and putting the Indian companies at a disadvantage.

1.2.2. Insurance Act 1938

It was one of prime significant piece of ruling approved and made effective from 1st July 1939 consolidating the laws related to the insurance business. This leading piece of legislation reflected the governance all the practices and versions of insurance by imposing Government control on insurance industry. Furthermore, this leading legislation of 1938 was continuously edited with amendments in 1950, 1956, 1968, 1972, 1999 and 2002. Subsequently lead the establishment of IRDA. This Act largely comprises following provisions:

- Registration of Insurers and Renewal of Registration;
- Manner of Investment of Premium; and Maintenance of Insures’ Solvency Levels;
- Appointment of Staff; and Amalgamation and transfer of Insurance Business;
- Assignment or Transfer of Policies and Nominations;
- Rural and Social Sectors; and Control over Management;
- Licensing of Agents and Their Commission; and Prohibition of Rebates;
- Power of Investigation and Inspection by the Regulatory Authority;
- Protection of the Policyholders’ Interest; and

Up until 1999, the Central Government appointed a person to exercise all the powers, discharge the functions and perform the duties of the Authority (the Controller of Insurance) and accountable for management of the Insurance Act 1938. The Controller was substituted with the IRDA.
1.2.3. Life Insurance Corporation Act 1956

Acceptance of Life Insurance Corporation Act 1956 on June 19th, 1956 served the route for the establishment of Life Insurance Corporation (LIC) on September 1st, 1956. The prime objectives behind the acceptance of Life Insurance Corporation Act 1956 was to;

- Nationalize the insurance business in India by transferring all such business to the LIC of India.
- Regulate and Control the business of the LIC and other connected matters.

Under section 30 of Life Insurance Corporation Act 1956 only LIC was allowed to execute life insurance transactions in country. Later in 1999, as a portion of the Government’s strategy of economic restructurings, this special honor was withdrawn through an amendment.

1.2.4. Insurance Regulatory and Development Authority (IRDA) Act, 1999

At the end of 1999, Indian parliament approved The Insurance Regulatory and Development Authority (IRDA) Act with the provision to institute IRDA as an organization govern under governmental laws and approvals with the objectives to;

- To protect the interest of holders of insurance policies;
- To regulate, promote and ensure orderly growth of the insurance industry; and other related matters.

The modifications of Insurance Act 1938, the Life Insurance Corporation Act, 1956, and General Insurance Business (Nationalization) Act, 1972 were directed by section A of the IRDA Act, 1999. The Controller of Insurance was substituted with the IRDA in order to direct the provisions associated with registration, license granting and establishing the protocols concerning appropriate operational conduct to safeguard the policyholders’ interest.

As per cited in Section 4 of IRDA Act, 1999, the configuration of the IRDA comprises of a Chairperson, whole-time members (maximum five), part-time
members (maximum four) and all these members are Government appointees. The functions, responsibilities, and authorities of the IRDA are governed under section 14 of the IRDA Act.

1.2.5. Prevention of Money Laundering Act (PMLA) 2002

Money laundering is a process in which illicit currency is brought into the commercial arrangement to look as if it was lawfully acquired by revealing its illegitimate source. The term “Money laundering” describes the method of transforming dirty currency into clean currency. Illegitimate or muddy money is laid through a sequence of dealings so that it comes out as clean or genuine money.

The term “money laundering” have three basic stages as explained in below mentioned figure;

**Figure: 2.1 Stages of Money Laundering.**

<table>
<thead>
<tr>
<th>Placement</th>
<th>Layering</th>
<th>Intergration</th>
</tr>
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<tbody>
<tr>
<td>• Involves the physical placing of cash obtained from illegal sources.</td>
<td>• Separating illicit proceeds from their source by creating complex layer of financial transactions</td>
<td>• Creating the impression of an apparent legitimate explanation for the illegal proceeds</td>
</tr>
</tbody>
</table>

In order to control the activities of money laundering and to battle against terrorism funding, Prevention of Money Laundering Act (PMLA), 2003, was made effective from 1<sup>st</sup> July 2005. On 31<sup>st</sup> March 2006, guiding principles on Anti-Money Laundering (AML) for insurers were assigned which made it mandatory for entire insurance industry to institute an anti-money laundering program.

It is mandatory for every insurance enterprise to have an AML policy and in view of that they shall file a copy with the IRDA. These guiding principle are significant for insurance agents. The Reserve Bank of India (RBI) who controls all the financial establishment and its transactions, Securities Exchange Board of India (SEBI) who regulates the equity markets, Insurance Regulatory Development Authority (IRDA)
who supervise the insurance business and all other intercessors related to finance are prerequisite to comply with PMLA.

According to IRDA, it is compulsory to put up with the AML guiding principles for every life insurance enterprises and to implement an AML program encompassing the followings;

- Internal policies, procedures and controls; and the appointment of a principal compliance officer;
- Recruitment and training of insurance agents / employees on AML measures; and
- Internal audit / control.

Subsequent must be observed with respect to guidelines of the AML while performing insurance transaction;

- **Know Your Customer (KYC)**

According to KYC norms, the correct identity of the customers must be maintained by insurers and for the compliance of the same the agent plays significant role to ensure that their customers stand up to the required identity and address testimonies. KYC requirements must be approved at every stages such as at time of policy issuance, top-ups of premium and at settlements of the claim. Every possible and available sources must be poised, including insurance agents, to collect the information on customers and customers must be instructed by the agents regarding the significance and compliance with KYC necessities. The list of documents which are to be produce while establishing their identification, residence addresses and income has also been suggested by IRDA.

- **Risk Profile of the Customer**

Individuals are identified and treated as ‘low-risk customer’ who produces correct identity and legitimate earnings source. On the other hand, a situation where a specific customer’s profile is inconsistent either with their policies or any investments withdrawn, an appropriate investigation is conducted via procuring every essential documents.
An individuals with high net worth (HNIs), Non-Resident Indians (NRIs), person who is politically exposed (PEPs) and Non-Government Organizations (NGOs) all of these are classified as ‘high-risk customers’. Special care must be taken by insurance while transacting with high-risk customers.

➢ Sources of Funds

The customers are desired to confirm and appropriately acknowledge the source from where the premiums are paid (sources of revenues) and their projected net worth. The responsibility lies with insurance agents to acquire appropriate earnings evidences to institute the customer’s necessity for insurance protection. And specifically when a single premium is paid by the customer and for a considerable sum assured, an appropriate evidence of sources of income must be collected.

➢ Threshold for Payment of Premium in Cash

Insurer must confirm that the premiums are paid from authentic resource and the premium paid through cash should not surpass. Premiums beyond Rs. 50,000 are only be paid through negotiable instruments such as demand draft or cheque. Nowadays credit cards or debit cards or any other financial networks are also accepted as a mean of premium payment.

Therefore, customers are communicated with AML regulations by their insurance agents. The agents who depict insurers to AML – associated risks on numerous instances then, the services of defaulting agents are dismissed and particulars are to be conveyed to the IRDA for additional action. The insurer must take all essential steps to protect obedience, if agents are confronted with a non-compliance, then business relations must be terminated.

1.2.6. Married Women’s Property (MWP) Act 1874

Under Section 6 of Married Women’s Property (MWP) Act 1874, if a married male take out the policy for his life or for spouse and children welfares, it shall be considered as a trust and the policy will not be with the control of the insured’s creditors. This Act do affect the beneficiaries of such policy and that may either the wife alone or one child or all children or conjointly all of them.
**Fundamental Characteristics of the MWP Act touching a life insurance policy are;**

- The proposer should be married, divorced or widowed man. Only his wife and children can be beneficiaries. Children include sons and daughters. In the case of Hindus, adopted sons and daughters are also included.
- The policy must be on own life; and each policy will remain a separate trust.
- The policy is insured as a trust. Either his wife or child (if over the age of 18) can be appointed as a trustee. The individual has the choice of revoking the trustee(s) and appoint new ones at any time.
- Two or more trustee can be appointed. And the policy cannot be amended or surrendered.
- Insurance under the MWP Act is free from court attachments, and creditors, and even the life insured does not have any right to deal with the policy.
- When claim arises, the policy monies will be paid to the trustees according to the policy. The trustees hold the policy money for the beneficiaries.
- It should not have been formed to defraud creditors.
- Nomination and assignment are not allowed.

**1.2.7. Other Key Legislations**

**1.2.7.1. Redressal of Public Grievance Rules 1998**

The Redressal of Public Grievance Rule 1998 (RPG rule 1998) has instituted the Governing Body of Insurance Council. The prime objective of GBIC is to establish and assist the establishments of Insurance Ombudsman with in the country. A representative, either managing director or chairman or a director of each and every insurance enterprises comprises the GBIC.

Several provisions of the RPG rules concerns:

- The appointment and office term for the Insurance Ombudsman;
Stipulation in respect of staffing and administration of the Ombudsman Center;

The power of the Ombudsman; and

The manner of lodging complaints and disposing of complaints by the Ombudsman either by way of ‘recommendation’ or ‘award’.

1.2.7.2.  **IRDA (Insurance Advertisement and Disclosure) Regulations 2000**

According to this Regulation of 2000, *Insurance Advertisement* is any direct or indirect, static or continuous announcement associated to a policy is made either to anticipate or results in sales development or solicitation of a policy to public. It is any public announcement in all possible form of written and printed materials distributed through the print and electronic intermediate.

Advertisement considered discriminating or ambiguous if it;

- Fail to be identified as an insurance product; or
- Make claims beyond the ability of the policy; and
- Describe such benefits that do not match policy provisions.

**Advertisement Usage by Insurance Agents**

An insurer must ratify an advertisement in writing prior to public announcement if it is prepared by an agent and also ensure that it is not deceiving or misrepresentative. While inserting an advertisement, it is not obligatory for an agent to acquire the prior endorsement of the insurer, if the advertisement:

- Has been developed by the insurer itself and is provided to its agents;
- Is generic and information is limited to the agent’s name, logo, address and phone number; or
- Contains only statements that mention the experience, service and qualifications of the agent and makes no reference to specific policies, benefits or costs.

1.2.7.3.  **IRDA (Manner of Receipt of Premium) Regulation 2002**

These Code of Practice describes the methods for procuring an insurance premium funded by policyholder for and these are as follows:
- Cash; or any negotiable instrument such as cheque, demand draft, pay order, bankers cheque drawn on any schedule bank in India;
- Postal money orders; or credit or debit card held in the policyholder’s name;
- Bank guarantee or cash deposits; or internet; or e-transfer;
- Direct credit, via standing instructions of the proposer or the policyholder or the life insured through bank transfer; and
- Any other method of payment as may be approved by the IRDA from time to time.

All collection charges of the payment instrument are to borne by the proposer and the insurers are allowed to recuperate these charges from proposer. The insurers will initiate the risk coverage only after the receipt of the premium payment.

1.2.7.4. IRDA (Licensing of Corporate Agents) Regulations 2002

The IRDA (licensing of Corporate Agents) Regulations 2002, announces the guidelines of granting of licenses and other matter related to corporate agents for example; enterprises, corporations, financial institutes or any other autonomous social organization working for mutual benefits etc. These corporate agents are not persons but still be the agents.

1.2.7.5. Foreign Exchange Management (Insurance) Regulations 2000

Reserve Bank of India issued a notification of Foreign Exchange Management (Insurance) Regulations in 2000. According to these regulations, an Indian residents are prohibited to draw either life or general insurance policies from an insurer outside of India.

Later, this Regulations 2002 was amended and states that the prohibition of drawing a general insurance policy from an insurer outside of India is not applicable for a component situated inside the Special Economic Zone (SEZ).

1.2.7.6. Foreign Exchange Management (Insurance) Regulations 2000 – Life Insurance Memorandum (LIM)
It exhibits guidelines which control the monetary exchange. It also directs issues concerning non-resident with life insurance policies in Indian currency and overseas currencies, premium payment and claims reimbursement or other allied matters.

➢ **Issuance of Policy and Collection of Premium**

Life insurance policies can only be allotted to Indian national or resident in foreign currency, only if, the premium is paid from either overseas foreign funds holding, or overseas accounts with accredited brokers in India.

➢ **Claim Settlement**

A circumstances where the applicant is resident outside India and disbursement of life insurance policy of Indian currency in foreign currency will be in ratio of sum of premium funded with overseas currencies. In the case where receiver is non-resident, reimbursement can be done through their NRE or FCNR accounts in foreign currency.

➢ **Commission to Overseas Agents**

Insurance agents who are permanently resident outside India can also be paid by insurance even though the portion of the business collected from resident Indians and premiums are funded in Indian currency within the country.

1.2.7.7. **Consumer Protection Act (COPA) 1986**

According to this act regulations, an individual who is dissatisfied with the goods or service delivery can approach any of the several forums recommended by Redressal Act and this applicable to the insurance business also. The right to pursue redress can be exercise by the policyholders for discriminating business acts or substandard facilities from either insurers or agents. Refusal and deferments of claims are some of common issues resulting in to disputes in insurance sector.

Every district of all the State of India are facilitated with Consumer Dispute Redressal forum. The district level forum handles the complaints valuing less than Rs. 20,00,000. The State level forum handles the complaints valuing less than Rs. 1,00,00,000. The National Commission addresses the issues further than the
jurisdiction of the State forum and can too appeals in contrast to the State forum decision.

Basic Consumer Rights are as follows;

- Right to Information. And Right to be Safe.
- Right to Choose. And Right to be Heard.
- Right to Seek Redressal. And Right to Consumer Education.

Consumer must book the complaint of grievance inside the period of two years from the date on which the action has caused, except when the competent consumer forum has overlooked it.

1.3. REGULATORY AUTHORITIES AND KEY BODIES OF INSURANCE IN INDIA

The Indian Government took a number of years to consider the recommendations of the Malhotra Committee for final implementation. The Indian Parliament on 2nd December 1999 passed Insurance Regulatory and Development Act (IRD Act) for an institution of a corporate authority with the objectives to safeguard the interest of policy holders, to control, to encourage, to guarantee the systematic development of the insurance business and also to modify Insurance Act 1938, Life Insurance Corporation Act 1956 and General Insurance Business (Nationalization) Act 1972.

1.3.1. Insurance Regulatory and Development Authority

In order to regulate and develop the Indian insurance industry, an autonomous body, Insurance Regulatory and Development Authority (IRDA) was constituted. In April, 2000 a statutory body (IRDA) was incorporated with the objective to protect the interest of holders of insurance policy. It was accepted through number of revisions of 1938 Act and powers of the Controller of Insurance were conferred on IRDA.

The IRDA members are Central Government appointees and are amongst the individuals with high aptitude, reliability and acquaintance or involvement in life insurance, general insurance, actuarial science, economics, law, administration,
finance, accountancy and others. The mentioned statutory body (IRDA) comprises of a chairperson, maximum five whole-time members and four part-time members.

This Authority has been empowered for standardizing, encouraging and ensuring systematic development of whole the insurance industry in the country. Additionally, it has also been empowered with abundant powers and functions comprising recommending protocols on the investment of revenues collected by insurance enterprises, managing regulations of margin solvency, resolution of conflicts amongst intercessors and insurers, effective administration of Tariff Advisory Committee, encouraging the insurer to invest the proportion of premium earnings in to various finance schemes and regulating the life insurance and general insurance transactions in the rural as well as social sectors.

**Tariff Advisory Committee**

It is a Consultative corporate body responsible for controlling and regulating the general insurers with respect to their terms and conditions, tariffs, benefits presented by their transactions. On discharge any actions of insurers, it authorized to probe any insurers for facilitating the information or essential testimonials. Failure to fulfill with this kind of necessities shall be considered as breach of Insurance Act regulations. for all insurer of an amount not beyond, In an instance of reinsurance business in India, it mandatory to pay an yearly payment of fees of one percent of the total premiums recognized by them within India to the Advisory Committee; and for other insurance business, one percent of gross premium written within the country.

**1.3.2. Insurance Association of India, Councils and Committees**

Members of the Insurance Association of India are all those insurers and provident societies who are either domiciled or incorporated in India and the associate members comprises all those insurers and provident societies which are either incorporated or domiciled some other place than India.

Insurance Association consists two councils, the Life Insurance Council and the General Insurance Council.
Life Insurance Council (LI Council)

It was instituted under Insurance Act 1938, section 64A, and in India, it operated by Executive Committee, sub-committees and every life insurance enterprises. Its responsibilities includes development and coordinate with the Government, the IRDA and the community for all the considerations on behalf of the insurance industry. Briefly, this can be interpreted as the facade of the life insurance sector.

Its purpose is to perform important role as well as a complementary starring part in renovating Indian life insurance industry as energetic, reliable and cost-effective amenity to assistance individuals into their expedition for prosperity.

Life Insurance Council activities involves;

➤ Maintaining high standards of ethics and governance.
➤ Creating a positive image of the industry and enhancing consumer confidence.
➤ Promoting awareness of the role and benefits of the life insurance.
➤ Organizing structured and proactive discussions with the Government, lawmakers and regulators. Conducting research in life insurance and contributing to the development of the sector.
➤ Acting as a forum of interaction with other organizations within the financial service sector. Playing a leading role in insurance education, training and conferences.
➤ Providing help and guidance to members when necessary. To be an active link between the Indian life insurance industry and the global markets.

General Insurance Council

It embodies a cooperative attentiveness of the non-life insurance enterprises in India. It expresses itself on disputes expressing mutual concern, contributes to considerations associated with policy material, and also promotes an extraordinary criteria client service throughout insurance sector.
1.3.3. Ombudsmen

According to the Redressal of Public Grievances Rules 1998, Ombudsmen are employed for resolution of every grievances concerning the reimbursement of privileges by insurance establishments in a cost-effective, competent and efficient fashion. Any individual can file a complaint of grievance, in the definite style, against an insurer, to an Ombudsman within its jurisdiction. Conversely, before filing such complaint, an individuals must represent it to the insurer and either the insurer had excluded it or has not responded.

Supplementary, the grievance must be made within one year from the date when the insurer refuse the complaint and this complaint should not be awaiting of proceedings or undecided on the same matter in any court or Consumer Forum. These are authorized for acceptance and think through some fractional or entire claims refused by an insurer or some conflicts with respect the premium paid during the tenure of the policy or every argument on the lawful creation of the policies related to privileges or deferral in reimbursement of privileges and the non-issuance of a written acknowledgment of having received of any insurance document to customers after the receiving of premium.

They also functions as a guidance counselor and negotiator and suggest commendations to involved parties and in that incident, the grievance settlement is done through agreement of concerning the parties involved. Though, if this agreement do not work then the ombudsmen may come up with a compensation covering the loss agonized with direct consequence of the insured exposure or a sum less than Rs. 2 Million, whichever is lower, within the three months of the complaint.

1.3.4. Insurance Brokers Association of India (IBAI)

It is a zenith organization acknowledged by IRDA aimed at every registered insurance brokers in India. The IRDA has introduced Insurance brokers who are professionally characterize and facilitate the benefits of insurance customers. The insurance brokers symbolize the insurance customer and not the insurance company, even though the insurance enterprise reward them.
1.3.5. Institute of Actuaries of India (IAI)

In 1944, the Institutes of Actuaries of India (IAI) was instituted and in 1979 it was listed as an associate of the International Actuarial Association. An Actuary has an expertise in applying statistical and scientific approaches intended aimed at evaluating the risk accompanying with happenings of definite actions. An actuary ought to be associated with the Institutes of Actuaries of India.

Objectives of Institutes of Actuaries of India are mentioned below;

➢ Advancing the actuarial profession in India.
➢ To provide opportunities for interaction among members of the profession.
➢ Facilitating research and arranging lectures on relevant subject.
➢ To provide facilities and guidance to those studying for the actuaries exams.

1.3.6. Insurance Institute of India (III)

Formerly established, Federation of Insurance Institutes was turn into the Insurance Institute of India (III) in 1987 grounded on objectives to encourage insurance tutoring and training in the country. It is thoroughly connected with every the fragments of the insurance business, together with IRDA and other public or private insurance corporations.

At numerous levels, the investigations are conducted by this institute and also works with Chartered Insurance Institute and several international insurance organizations incorporated in Canada, United States and United Kingdom, including.

1.3.7. National Insurance Academy (NIA), Pune

In 1980, the Life Insurance Council, General Insurance Council and the four other Public Sector Undertaking of General Insurance supported the Government in order to establish National Insurance Academy. The key purpose of National Insurance Academy is to plan, implement and execute an insurance training. The participating executives, faculty and staff members are aided with education, exploration, administration and communications.
It is prime institution to educate the participant in terms in insurance or risk management through explorations, acquisition of skills, relationship development, consultancy and publications. Its cognitive development curriculums has generated plentiful proficient insurance executive practitioners in the country.

1.3.8. Chartered Insurance Institute (CII)

In 1912, Royal Charter of United Kingdom instituted the Chartered Insurance Institute (CII). It is the biggest organization comprise of financial and insurance proficient and includes approximately over 150 countries with more than 95,000 members. It is committed in the direction to implement reliable universal professional ethics through developing the proficiency, skills and behavior of insurance as well as commercial amenity workforce in respective native marketplaces.

1.3.9. Institute of Insurance and Risk Management (IIRM), Hyderabad

Institute of Insurance and Risk Management (IIRM) is a global research and training institute. In 2002, State Government of Andhra Pradesh and IRDA, mutually established this institute as per the IRDA Act 1999 Section 14(f) aimed to promote Regular or Distance Learning Courses of International Post-Graduate Diploma in Insurance and Risk Management. The Institute targets at assisting in learning and educating through understanding emerging insurance markets necessities in the context of its existing challenges and opportunities.

1.4. REGISTRATION OF AN INSURANCE COMPANY IN INDIA

In order to pursue the insurance business in India, all the insurance enterprises are mandatory for acquiring a registration certificate from the IRDA before the commencing the business. The prior terms and conditions for applying for such registration are cited underneath the 1938 Act, IRD Act and several guidelines recommended by Authority.
1.4.1. General Registration Requirements

Certain important general registration requirements, which are crucial to accomplish by an applicant, are as follows:

- The applicant would need to be a company registered under the provisions of the Indian Companies Act, 1956. Consequently, any person intending to carry on insurance business in India would need to set up a separate entity in India.
- The aggregate equity participation of a foreign company (either by itself or through its subsidiary companies or its nominees) in the applicant company cannot exceed 26% of the paid capital of the insurance company. However, the Insurance Act and the regulations there under provide for the manner of computation of such twenty-six percent.
- The applicant can carry on any one of life insurance business, general insurance or re-insurance business. Separate companies would be needed if the intent were to conduct more than one business.
- The name of the applicant needs to contain the words “Insurance Company” or “Assurance Company”.

1.4.2. Capital Structure Requirements

The contender must accomplish the capital structure necessities as follows;

- A minimum paid up equity capital of Rs. 1 Billion in case of an applicant which seeks to carry on the business of life insurance or general insurance.
- A minimum paid up equity capital of Rs. 2 Billion, in case of a person carrying on exclusively the business of re-insurance.

To define aforementioned capital prerequisite, the securities are deposited inclusive of all initial overheads suffered during establishment and company registration.

Company’s Promoter, at all the time, is not allowable to hold the paid up capital greater than twenty-six percentages in any Indian corporation. Nevertheless, several provisional measures has been indorsed, percentages higher than 26% are tolerable if the promoter divest in a capital held by them in excess of 26%.
1.4.3. Renewal of Registration

An insurer with approved registration certificate must renovate its registration every year prior to 31st December with the fees higher of:

- Fifty thousand rupees for each class of insurance business, and
- One fifth of one percent of total gross premium written direct by an insurer in India during the financial year preceding the year in which the application for renewal of certificate is required to be made, or rupees fifty million, whichever is less; (and in case of an insurer carrying on solely re-insurance business, instead of the total gross premium written direct in India, the total premium in respect of facultative re-insurance accepted by him in India shall be taken into account).

This fees may vary as per total gross premium written in India for the period of the preceding year in which the application is made by the insurer. In the class of insurance business, the registration fees shall not go beyond one-fourth of the one percent of such premium income or fifty million rupees and whichever is less becomes liable to pay.

1.5. INSURANCE COMPANY REGULATORY FRAMEWORK IN INDIA


1.5.1. Deposits

In order to carry an insurance business in India, every insurer should made deposit the following amounts with the Reserve Bank of India. It should be either in cash or permitted securities assessed at the market value on the credit day or partially in currencies and partially in legalized securities.
In the case of life insurance business, a sum equivalent to one percent of his total gross premium written in India in any financial year commencing after 31st day of March, 2000, not exceeding rupees hundred million;

In the case of general insurance business, a sum equivalent to three percent of his total gross premium written in India, in any financial year commencing after 31st day of March, 2000, not exceeding rupees hundred million;

In the case of re-insurance business, a sum of rupees two hundred million;

If the business done or to be done is Marine Insurance only and relates exclusively to country craft or its cargo or both, only rupees hundred should be deposited with the RBI;

The RBI hold these securities from insurers, however, these are returnable to the insurer in the occasion and under Insurance Act provisions such securities are returned. Interest accrued on such deposited securities are compensated to insurer, subject to deducting the commission charges for such interest realization. Furthermore, it is essential to be aware that the deposits will not be;

- Susceptible to any assignment or charge; or
- Available for the discharge of any liability of the insurer other than liabilities arising out of policies of insurance issued by the insurer so long as any such liabilities remain undischarged; or
- Liable to attachment in execution of any decree except a decree obtained by a policy-holder of the insurer in respect of a debt due upon a policy which the policy holder has failed to realize in any other way.

In case of an insurer terminating its all courses of insurance business in the country, the deposit made with the RBI is returned to insurer on an application to the Court is made and of all his accountabilities are fulfilled with respect to all classes of insurance business in India.

1.5.2. Investment

Every insurer is mandated to keep participated or invest definite sum of assets as indicated by Insurance Act. Policyholder’s funds must not be directly or indirectly invested outside the country.
1.5.2.1. Life Insurance

The life insurers are prerequisite to invest and have invested in assets at all the times. This asset’s value must not be below its entire liabilities to insurance policies holders claim on maturity and the liabilities on life insurance policies maturing for disbursement in India, deducted by the premium amount which are due but have not been paid to the insurer on such policies and the grace period for the same have not expired. It is also deducted by any amount due to the insurer for sanctioned loans from the surrender values of life insurance policies maturing for payment in India issued by an insurer. Also deducted by liability anticipated by insurer.

At all times, it is mandatory for every life insurers to invest and have invested his controlled fund i.e. the funds other than the funds related to general annuity, pension and unit linked life insurance transaction as per following fashion. It must be free of any impediment, charge, hypothecation or lien;

<table>
<thead>
<tr>
<th>Table: 2.1 Avenues for Life Insurance.</th>
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<tbody>
<tr>
<td>Government Securities :</td>
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<tr>
<td>Government Securities or other Approved Securities</td>
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<tr>
<td>Approved Investment:</td>
</tr>
<tr>
<td>Infrastructure and Social Sector:</td>
</tr>
<tr>
<td>Other to be governed by Exposure / Prudential Norms:</td>
</tr>
<tr>
<td>Other than in Approved Investment to be governed by Exposure / Prudential Norms:</td>
</tr>
</tbody>
</table>

Aimed at the purpose of computing the investment, the volume of securities with respect to life insurance transaction ended to RBI, will stay considered as assets financed under Government Securities. Moreover, an insurer should not participate any amount in the form of shares or debenture of any private holding company out of the controlled funds.

As per policy holder’s preference for investment pattern prescribed and permitted in policy document, every insurer must invest and have invested its segregated unit – linked life insurance fund. The insurer can only offer unit linked policies in which the
units associated with assets are merchandisable and manageable. Though, the entire investment, all time, in other sanctioned categories shall surpass five percent of fund.

1.5.2.2. Pension and General Annuity

At all times, every insurer is required to have invested assets of pension, general annuity and group insurance businesses as per below mentioned manner;

Table: 2.3 Avenues for Pension & General Annuity.

<table>
<thead>
<tr>
<th>Avenues</th>
<th>Investment %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Securities</td>
<td>Not less than 20%</td>
</tr>
<tr>
<td>Government Securities or other Guaranteed Securities:</td>
<td>Not less than 40%</td>
</tr>
<tr>
<td>Poise to be invested in Permitted Investment and to be administered by Exposure / Prudential Norms:</td>
<td>Not less than 60%</td>
</tr>
</tbody>
</table>

1.5.2.3. General Insurance

It is mandatory for a general insurer to have invested his entire assets in permitted avenues as mentioned below;

Table: 2.2 Avenues for General Insurance.

<table>
<thead>
<tr>
<th>Avenues</th>
<th>Investment %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Government Securities</td>
<td>Not less than 20%</td>
</tr>
<tr>
<td>State Government Securities or other Guaranteed Securities including the aforesaid:</td>
<td>Not less than 30%</td>
</tr>
<tr>
<td>Housing and Loans to State Government for Housing and Fire Fighting Equipment:</td>
<td>Not less than 5%</td>
</tr>
<tr>
<td>Investment in Approved Investment:</td>
<td></td>
</tr>
<tr>
<td>Infrastructure and Social Sector:</td>
<td>Not less than 10%</td>
</tr>
<tr>
<td>Other to be directed by Exposure / Prudential Norms:</td>
<td>Not exceeding 30%</td>
</tr>
<tr>
<td>Other than in Approved Investment to be governed by Exposure / Prudential Norms:</td>
<td>Not exceeding 25%</td>
</tr>
</tbody>
</table>

1.5.2.4. Re - Insurance

For every such business are mandatory to have invested their entire assets in the similar mode as identified and prescribed in business of general insurance.
### Table: 2.4 Avenues for Re - Insurance.

<table>
<thead>
<tr>
<th>Avenues for Re - Insurance</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Government Securities :</td>
<td>Not less than 20%</td>
</tr>
<tr>
<td>State Government Securities or other Guaranteed Securities including the aforesaid:</td>
<td>Not less than 30%</td>
</tr>
<tr>
<td>Housing and Loans to State Government for Housing and Fire Fighting Equipment:</td>
<td>Not less than 5%</td>
</tr>
<tr>
<td>Investment in Approved Investment:</td>
<td></td>
</tr>
<tr>
<td>Infrastructure and Social Sector:</td>
<td>Not less than 10%</td>
</tr>
<tr>
<td>Other directed by Exposure / Prudential Norms:</td>
<td>Not exceeding 30%</td>
</tr>
<tr>
<td>Other than in Approved Investment to be governed by Exposure / Prudential Norms:</td>
<td>Not exceeding 25%</td>
</tr>
</tbody>
</table>

### 1.5.3. Valuation of Assets – Liabilities and Solvency Margins

At all times, an insurer would uphold a surplus amount of assets not less than his liabilities or related amount in the subsequent fashion. These explains the required Solvency Margin.

- In the case of an insurer carrying on life insurance business, the required solvency margin shall be the higher of rupees five hundred million (One Billion in case of re-insurers) or the aggregate sum arrived at based on the calculations specified in the Insurance Act.
- In case of an insurer carrying on general insurance business, the required solvency margin shall be the highest of the following amounts:
  - Rupees five Hundred Million (Rupees One Billion in case of re – insurer); or a sum equivalent to twenty percent of net premium income: or a sum equivalent to thirty percent of net incurred claims$^5$.

This shall be not more than fifty percent, in order to acclaim for re – insurance and computing net premium and net incurred claims which are in percentage not actual, as stated through code of practice.
If an insurer explains unsuccessful to uphold the mandatory Solvency Margin will be considered as bankrupt and may be curled up by the authorities. As per the IRDA Regulation 2000 with respect to Assets, Liabilities and Solvency Margin of Insurers, it is mandatory for life insurer to declare its Solvency Margin through Schedule III – A.

For every insurers, it is mandatory to make a declaration of assets value as per aforementioned provisions. According to the aforesaid regulations, life insurance business are required to prepare liabilities statement through Schedule II – A. The aforesaid statements must be provided independently focusing the business within the country and total business executed.

In case of insurance business transacted in a country outside India and yields the statements or returns to that country’s governmental authority must encompassed such particulars in prescribed format indicated as per the regulations subject to Actuarial Report and Abstract.

1.5.4. Submission of returns

All insurer are required to submit the subsequent statement mentioning the income of the previous year, held and invested assets and controlled funds investment on 31st day of December and all other facts which are mandatory to establish the comply of necessities of the Insurance Act.

**Table: 2.5 Details of Submission of Returns.**

<table>
<thead>
<tr>
<th>Form No.</th>
<th>Description</th>
<th>Period of Filing</th>
<th>Time Limits For Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form 1</td>
<td>Investment &amp; Income on Investment Statement.</td>
<td>Yearly</td>
<td>Within 30 days from the date of Board Approval of Audited Accounts</td>
</tr>
<tr>
<td>Form 2</td>
<td>Down Graded Investments Statement.</td>
<td>Quarterly</td>
<td>Within 21 days of each quarter end.</td>
</tr>
<tr>
<td>Form 3A</td>
<td>Investment of Controlled Fund (Life) – Compliance Report Statement.</td>
<td>Quarterly</td>
<td>Within 21 days of each Quarter end.</td>
</tr>
<tr>
<td>Form</td>
<td>Investment of Total Assets (General) –</td>
<td>Quarterly</td>
<td>Within 21 days of each Quarter end.</td>
</tr>
</tbody>
</table>
1.5.5. Actuary

For all re – insurance business in India, it is mandatory to appoint an eligible person who act as an appointed actuary, under the IRDA (Appointed Actuary) Regulation 2000, after getting the endorsement of the Authority. It is mandatory to appoint an actuary for a life insurer carrying business in India.

An actuary has an authority to access all information and documents of an insurer on order to perform obligations and responsibilities. And may also remain present at the insurer’s assemblies. An Actuary may also converse into the issues associated with actuarial advice and Margin of Solvency. Such actuarial advice might be related to product planning and valuing, contractual phrasing, investment and re-insurance. An appointed actuary also performs a key role to safeguard the upholding solvency margin, endorse the assets and liabilities that have been valued.

In case of life insurance business, an appointed actuary:

- Certify the actuarial report, abstract and other returns required under the Insurance Act,
- Comply with the provisions with respect to the bases of premium,
- Comply with the provisions with respect to recommendation of interim bonus or bonuses payable by the life insurer to policyholders whose policies mature for payment by reason of death or otherwise during the inter-valuation period, and
- Ensure that the policyholders’ reasonable expectations have been considered in the matter of valuation of liabilities and distribution of surplus to the participating policyholders who are entitled for a share of surplus.

In case of general insurance, an appointed actuary is requisite to confirm not only the rationality of rates with those of contracts administered by the insurer’s in-house tariff but also the actuarial principles are implemented in liabilities determination and in
computation of reserves incurred but not reported claims. Every year, every life insurer should be investigated regarding the financial status including an assessment of liabilities and a brief report must be prepared. The investigation is aimed at distributing the profits and reports are published for public.

1.5.6. Insurance Advertisements

The IRDA Regulations 2000 regarding Insurance Advertisements are aimed at standardizing and regulating Insurance Advertisement published through any insurer or an intermediary or an agent. According the guidelines, it is mandatory for all the insurers, intermediaries and agents to maintain and advocate the classifications of control on content, method and form of broadcasting of marketing communication in relation to its products and these advertisements should be submitted to Authority.

It should not plunge into classification as discriminating and deceptive advertisement;

- That fails to clearly identify the product as insurance;
- Makes claims beyond the ability of the policy to deliver or beyond the reasonable expectation of performance;
- Describes benefits that do not match the policy provisions;
- Uses words or phrases in a way which hides or minimizes the costs of the hazard insured against or the risks inherent in the policy;
- Omits to disclose or discloses insufficiently, important exclusions, limitations and conditions of the contract;
- Gives information in a misleading way;
- Illustrates future benefits on assumptions which are not realistic nor realizable in the light of the insurer’s current performance;
- Where the benefits are not guaranteed, does not explicitly say so as prominently as the benefits are stated or says so in manner or form that it could remain unnoticed;
- Implies a group or other relationship like sponsorship, affiliation or approval, that does not exist;

Each advertisement must reveal complete information, insurer’s identity and insurance as the solicitation subject matter. Advertisement describing any benefits
must reveal the number and kind of coverage. In instance of online advertisement, insurer’s website or intermediary’s portal must comprise of all the disclosures to safeguard its own business and customers with exhibition of the license or registration numbers.

Moreover, it is also mandatory for every insurer or intermediary to follow accepted criterions of professional demeanor as per the recommendation of Advertisement Standard Council of India. In case of non – compliance with the aforementioned directives, an Authority possibly will take action in subsequent ways as mentioned below;

- Issue a letter to the advertiser seeking information within a specific time, not being more than ten days from the date of issue of the letter;
- Direct the advertiser to correct or modify the advertisement already issued in a manner suggested by the Authority with a stipulation that the corrected or modified advertisement shall receive the same type of publicity as the one sought to be corrected or modified;
- Direct the advertiser to discontinue the advertisement;
- Any other action deemed fit by the Authority, keeping in view the circumstances of the case, to ensure that the interest of the public are protected.

1.5.7. Obligation to the Rural and Social Sector

An insurer operating insurance business in country, have to guarantee the requirements of providing life or general insurance to the personnel belong to either rural sector or social sector, or who works in either unorganized or informal segment or economically susceptible or backward classes of the society during the first five financial years.
Table: 2.6 Obligations for the First Five Financial Years

<table>
<thead>
<tr>
<th>Rural Sector</th>
<th>Social Sector</th>
</tr>
</thead>
<tbody>
<tr>
<td>In case of a life insurer:</td>
<td>In case of all insurers</td>
</tr>
<tr>
<td>i. 5% in the first financial year;</td>
<td>i. Five thousand lives in the first financial year;</td>
</tr>
<tr>
<td>ii. 7% in the second financial year;</td>
<td>ii. Seven thousand five hundred lives in the second financial year;</td>
</tr>
<tr>
<td>iii. 10% in the third financial year;</td>
<td>iii. Ten thousand lives in the third financial year;</td>
</tr>
<tr>
<td>iv. 12% in the fourth financial year;</td>
<td>iv. Fifteen thousand lives in the fourth financial year;</td>
</tr>
<tr>
<td>v. 15% in the fifth year.</td>
<td>v. Twenty thousand lives in the fifth financial year.</td>
</tr>
<tr>
<td>In case of a general insurer</td>
<td></td>
</tr>
<tr>
<td>i. 2% in the first financial year;</td>
<td></td>
</tr>
<tr>
<td>ii. 3% in the second financial year;</td>
<td></td>
</tr>
<tr>
<td>iii. 5% thereafter.</td>
<td></td>
</tr>
</tbody>
</table>

1.5.8. Assignment and Nomination

1.5.8.1. Assignment

An insurance is an agreement which is private in nature. Henceforth, without the insurer’s prior approval, insured cannot reassign the contract. Life is the matter of subject in life and personal accident insurances, hence it is not agreeable to transfer. In such cases, through an assignment, the right to obtain the earnings of the policy transferred.

According to Insurance Act, an assignment and transfer of a life insurance policy can only be completed, if following circumstances are fulfilled:

- An endorsement upon the policy itself or by a separate instrument;
- The endorsement or instrument should be signed by the transferor or his agent and should be attested by at least one witness;
- It should specifically set forth the fact of transfer or assignment.

Abovementioned circumstances must be observed with regardless whether the transfer or assignment is made with deliberation or not. Once notice of assignment or transfer is given, the insurer will identify the assignee or transferee and he/she is the only the authorized individual to entitle the benefits of the policy. Moreover, such
individual shall also stand responsible for all those liabilities with which the assignor or transfer was responsible.

Furthermore, an assignment can possibly be either absolute, or possibly can be provisional in which the interest may passes on some other individual at the occurrence of a definite incident during policy tenure, or possibly in favor of the survivors as mentioned in the policy.

1.5.8.2. Nomination

A life insurance policy holder has the right to nominate an individual to whom the accrued fund of the policy can be paid on occurrence of specific event to the policy holder before maturity. Any such information regarding the nomination shall be conveyed to insurer and should be recognized and recorded on policy records or documents. However, a transference of an assignment indicates the nomination cancellation. But, according the Insurance Act’s guidelines with respect to nomination under Married Women’s Property Act, 1874 do not allows such cancellation of nominations.

1.5.9. Foreign Exchange Laws

In 1935, the Reserve Bank of India (RBI) was instituted underneath the Reserve Bank of India Act of 1934. Exchange Control Department within the RBI, is responsible to Regulate and enforcement of exchange controls. Before 1999, the Foreign Exchange Regulation Act (FERA) of 1973 had strict exchange control regulations in the country. In nineties, the Foreign Direct Investment (FDI) had constantly relaxed by passing the Foreign Exchange Management Act (FEMA), 1999, substituting the FERA, 1973. Under FEMA, overseas investment constraints were eliminated through relaxing procedures related to investment. Non-residents were allowed to make direct investment, either entirely or in the form of joint venture. Fundamentally, most of economic sectors including the service sector were permitted for foreign investment except in certain cases required Government authorization.

An Insurance company registered with IRDA were indorsed to transact general insurance in overseas currency and were also permissible for collecting the premiums in foreign currency avoiding the prior RBI approval. However, it is acceptable only in
certain categories like marine insurance of overseas shipping companies possessing the containers and Indian corporations are commissioning it. Likewise, in aviation insurance of flying machine trade in from overseas on either leased or hired for the purpose of air transportation.

Accredited merchants are indorsed with resolving the claims in overseas currency of general insurance policies with respect to definite situations where the claims is for the damage suffered within policy tenure. The established claim must be according to the reviewers report and authenticating documents. In reinsurance, the claim on the insurers will be acknowledged according to reinsurance agreement and payment is made to the non-resident beneficiary.

However, if receivers is resident, it is mandatory to settle the claim in Indian currency corresponding to the foreign currency. Under any situation, the payment cannot be paid to a resident recipient in overseas currencies.

According to Foreign Exchange Management (Insurance) Regulation, 2000, an India resident is not legalized to obtain any life or general insurance from an insurance enterprise outside India. Conversely, the RBI possibly can authorize the same for appropriate reasons. Though, in case of general insurance for the units which are sited in Special Economic Zones (SEZ) are exempted. Therefore, payments of premium for general insurance policies taken from insurers outside India for units located in SEZs must be remitted from foreign exchange balances.

A resident of India, not permanently resident12, can hold any insurance taken from an insurance enterprise outside India, provided that, the remitted premium is from overseas currency funds. But before taking a general insurance from an insurer outside India, an insured has to acquire no objection credential from the Central Government of India.

In order to pursue an insurance business in India, an overseas company may perhaps may enter through below mentioned means;
a) Direct Investment in Insurance Company

In India, principally, Foreign Direct Investment is acceptable either through the ‘automatic route’, or through prior endorsement from Government. The foreign investors are desired to encompass the consent from the Foreign Investment Promotion Board (FIPB).

In insurance, Foreign Direct Investment is not categorized under automated route. In several sectorial guidelines, the Indian establishments are allowed to accept Foreign Direct Investment devoid of prior Government approval if the investment policies are met i.e. in insurance sector it is 26% of capital on Foreign Direct Investment. A foreign insurance company is allowed to invest up to 26% and rest of the 74% by a company of Indian origin.

b) Branch or Liaison Office

A foreign insurance company may begin with a branch or liaison office with the authorization from the RBI and the Government of India, if it do not wish to invest directly in an Indian insurance company. Such office is allowed to conduct research work for the parent company and can act as communicator to establish a network amongst the Indian company and parent company.

1.5.10. Tax Implications

According the Indian Income Tax Act, 1963, the payment collected by Insurance companies and the commission received by insurance agents, both are taxable. The following insurance companies are computed with the income under Income Tax Act;

- Companies carrying on life insurance business which are resident in India;
- Companies carrying on any other kind of insurance business, which are resident in India; and
- Non-resident persons carrying on the business of insurance in India through a branch.

The commercial technique of determining the profits generated out of life insurance transactions are not standardized. It can be determined by the actuarial assessments or
estimations. The Income Tax Act directs provision of whether the company’s income is from Indian resident or not. The procedure of other sections of the Income Tax Act for the income computation is ignored by this exceptional provision.

Hence, the insurance business must theoretically calculate the profits according to the rules. The other recommendations which regulates the income computation under different income heads are overwritten by first schedule of Income Tax Act.

The profits generated from life insurance, general insurance and any of other business are calculated separately. The average of annual “Surplus” is taken while calculating the profits of life insurance transactions. The surplus is attained through adjusting the excess or shortfall unveiled using the actuarial assessment prepared during period ending. The above mentioned method, the outstanding tax is subtracted with tax pending at source for income on securities interest. On the other hand, computation the profits or loss of other business than life insurance, it is booked as the residual as revealed in the financial statements.

In event of foreign enterprises conducting the insurance business in India, the profits are considered as fraction of the world revenue corresponding to the fraction of the premium revenue resulting from India. The taxable rate for an overseas insurance company’s subdivision is 42% (inclusive of 5% surcharge) whereas, 38.75% (inclusive of 5% surcharge) is for an overseas insurance company’s subsidiary. The service tax network was introduced by the Finance Act, 2002 and the insured stands accountable for service tax of 5%.

a) Taxation of Life Insurance Companies

According to the Income Tax Act, the income tax is accounted at 12.5% of profits generated from the life insurance transactions. An insurance company is required to deposit one-third of income tax into Security Funds as per prescribed by an authority. Moreover, it is also mandatory to deposit at least 2.5% of such profits into Security Funds. Such deposits in the Security Funds will be deducted from the taxable income of insurance business.
b) Taxation of Commission to Insurance Agents

The Income Tax Act also specifies the norms for the purpose of taxation for the revenues earned by insurance agents while transacting insurance business and termed as insurance commission. ‘Insurance Commission’ can be demarcated as any remuneration or reward earned for procuring or acquiring insurance business. The guiding principles of this Act states that, deduction of income tax of recommended proportions is mandatory for any entity authorized for disbursing any such revenues to a resident individuals.

This is applicable to the individuals of Indian resident only. In case of non – resident individuals of India, tax will have to be deducted according to guidelines prescribed in Income Tax Act, Section 195.

1.5.11. Stamp Duty

According to the Indian Stamp Act, 1899, every insurance policy is required to be duly stamped with recommended stamp duty. Throughout the country the stamp duty rates are similar. By and large, the person affecting the insurance is liable for the stamp duty of Life Insurance Policy or Policy of Group Insurance\textsuperscript{13}. But, in fire insurance policy, the insurer is liable for the stamp duty. Non- compliance is considered as punishable felony and fined up to Rs. 200, if an insurer accepts the premium and overlook the policy or executes policy which is unstamped.

1.6. RECENT DEVELOPMENT IN INSURANCE

Indian insurance market was amongst the leading insurance market in the sphere until 2010 and is still escalating at quick rate. The market has observed lot many change in the decade ever since the private sector invited in for the operation. The vital improvements of former few years are as below;

Development of Importance of Information Technology

The concepts of Information Technology (IT) are being adopted by every insurance companies to bring advantages to the business and to increase accessibilities for their clients. These days, customers can perform several activities such as premium payment, examine or verify the status and additional information related to the policy
via the company’s website. The latest information relating to the receipt of premium, present surrender value or changes made in policy is being sent to the customer through mobile SMS or E-mails.

**Bancassurance**

Several Banks (Financial Institute) have also connected themselves with insurance companies and buildup the network in such a way that the insurance products are cross-sold to their existing customers’ network. This devoted customer base of the Banks has provided an added advantage to Insurance companies for offerings. Bancassurance has made large contribution to the insurance sales and is steadily developing. In return, the banks also receives an advantage of delivering value-added products to their existing customers as well as fees from the insurance companies. Numerous banks have also entered in to insurance business through instituting their own divisions.

**Online (Internet) Sales**

Now a days, many insurance enterprises have begun to offer insurance products online through internet. Particularly, this mean of selling eradicates the necessity for an intermediate and decreases costs. And such saving amount can be delivered to customers which appears in the configuration of smaller and affordable premium.

**Micro – Insurance**

In 2005, the IRDA issued the guidelines with respect to Micro – insurance in order to protect individuals of groups having lower income like members of Self-Help Group (SHG), agriculturalists, paddle rickshaw drivers and some others. The risks against life and assets of these group of individuals is covered under this type of insurance.

**Grievance Redressal**

At any time when to some extent a business is undergoing a rapid development, certain apprehensions are expected. An insurance business is no so unalike. In general, the customer’s complaints with respect to the disbursement of their privileges and the services has become larger in numbers. Therefore, certain measures were undertook by The IRDA in order to protect the policyholder’s interest by probing the companies to establish Grievance Redressal Cell and Insurance Ombudsman.
### Appendix I: Life Insurance Companies Active in India (As on 30th September, 2012)

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Name of the Life Insurance Company</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Public Sector Company</strong></td>
</tr>
<tr>
<td>1</td>
<td>Life Insurance Corporation of India.</td>
</tr>
<tr>
<td>2</td>
<td>Aegon Religare Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>3</td>
<td>Aviva Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>4</td>
<td>Bajaj Allianz Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>5</td>
<td>Bharti AXA Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>6</td>
<td>Birla Sun Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>7</td>
<td>Canara HSBC OBC Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>8</td>
<td>DLF Pramerica Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>9</td>
<td>Edelweiss Tokio Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>10</td>
<td>Future Generali India Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>11</td>
<td>HDFC Standard Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>12</td>
<td>ICICI Prudential Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>13</td>
<td>IDBI Federal Life Insurance Company Ltd.</td>
</tr>
<tr>
<td>14</td>
<td>ING Vysya Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>15</td>
<td>India First Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>16</td>
<td>Kotak Mahindra Old Mutual Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>17</td>
<td>Max Life Insurance Co. Ltd. (Earlier Max New York Life Insurance Co. Ltd.)</td>
</tr>
<tr>
<td>18</td>
<td>Met Life India Insurance Co. Ltd. Ltd.</td>
</tr>
<tr>
<td>20</td>
<td>Sahara India Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>21</td>
<td>SBI Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>22</td>
<td>Shriram Life Insurance Co. Ltd.</td>
</tr>
<tr>
<td>23</td>
<td>Star Union Dai-ichi Life Insurance Co. Ltd.</td>
</tr>
</tbody>
</table>

Endnotes

1 Section 2 (11), Insurance Act, 1938: “life Insurance Business” means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) and the happening of any contingency dependent on human life, and contract which subject to payment of premiums for a term dependent on human life and shall be deemed to include: (i) The granting of disability and double or triple indemnity accident benefits, if so provided in the contract of insurance; (ii) The granting of annuities upon human life; and (iii) The granting of superannuation allowances and annuities payable put of any particular profession, trade or employment or of the dependents of such persons.

2 Section 2 (6-A), Insurance Act, 1938: “Fire Insurance Business” means the business of effecting, otherwise than incidentally to some other class of insurance business, contracts of insurance against loss or incidental to fire or other occurrence customarily included among the risks insured in fire insurance policies.

3 Section 2 (13-A), Insurance Act, 1938; “Marine Insurance Business” means the business of effecting contracts of insurance upon vessels, cargoes and freights, goods, wares, merchandise and property of whatever description insured for any transit by land or water, or both and whether or not including warehouse risks or similar risks in addition or as incidental to such transit, and includes any other risks customarily included among the risks insured against in marine insurance business.

4 Section 2 (13-B), Insurance Act, 1938: “Miscellaneous Insurance Business” means the business of effecting contracts of insurance which is not principally or wholly of any kind or kinds included in Section 2 (6-A), (11) and (13-A) of the Insurance Act, 1938.

5 Section 64VA, (1A), Explanation, Insurance Act: “net Incurred Claims” means the average of the net incurred claims during the specified period of not exceeding three preceding financial years.
Regulation 2(b), IRDA (Insurance Advertisement) Regulations, 2000: “Insurance Advertisement” means and includes any communication directly or indirectly related to policy and intended to result in the eventual sale or solicitation of a policy from the members of the public, and shall include all forms of printed and published materials or any material using the print and or electronic medium for public communication such as; (i) Newspaper, Magazines and Sales talks; (ii) Billboards, Hoardings, Panels; (iii) Radio, Television, Websites, E-mails, Portals; (iv) Representation by intermediaries; (v) Leaflets; (vi) Descriptive literature / Circulars; (vii) Sales aids flyers; (viii) Illustration from letters; (ix) Telephone Solicitation; (x) Business Cards; (xii) Videos; (xiii) Faxes; or (xiv) Any other communication with a prospect or a policyholder that urges him to purchase, renew, increase, retain, or modify a policy of insurance.

Explanation: The following materials shall not be considered to be an advertisement provided they are not used to induce the purchase, increase, modification, or retention of a policy of insurance: (i) material used by an insurance company within its own organization and not meant for distribution to the public; (ii) communications with policy holders other than materials urging them to purchase, increase, modify, surrender or retain a policy; (iii) material used solely for the training, recruitment, and education of an insurer’s personnel, intermediaries, counselors and solicitors, provided they are not used to induce the public to purchase, increase, modify or retain a policy of insurance; (iv) any general announcement sent by a group policy holder to members of the eligible group that a policy has been written or arranged.

Regulation 2 (c), IRDA (Insurance Advertisements) Regulation, 2000: “Intermediary or Insurance Intermediary” includes insurance brokers, reinsurance brokers, insurance consultants, surveyors and loss assessors, or any other persons representing or assisting an insurer in one or more of the following: (i) soliciting, negotiating, procuring, or effectuating an insurance contract or renewal of an insurance contract; (ii) disseminating information relating to coverage or rates; (iii) forwarding an insurance application; (iv) servicing and delivering an insurance policy or contract; (v) inspecting a risk; (vi) setting a rate; (vii) investigating or assessing a claim or loss; (viii) transacting a matter after the effectuation of contract; (ix)
representing or assisting an insurer or other person in any other manner in the transaction of insurance with respect to a subject of insurance resident, located or to be performed in India; or (x) servicing a policy or contract.

8 Regulation 2 (c), IRDA (Obligation of insurers to Rural or Social Sectors) Regulations, 2000: “Rural Sector” shall mean any place as per the latest census which has (i) a population of not more than five thousand; (ii) a density of population of not more than four hundred per square kilometer; and (iii) at least seventy – five per cent of the male working population is engaged in agriculture.

9 Regulation 2 (d), IRDA (Obligations of insurers to Rural or Social Sectors) Regulation, 2000: “Social Sector” includes unorganized sector, informal sector, economically vulnerable or backward classes and other categories of person, both in rural and urban areas.

10 Regulation 2(e), IRDA (Obligations of insurers to Rural or Social Sectors) Regulations, 2000: “Unorganized sector” includes self – employed workers such as agricultural laborers, bidi workers, brick kiln workers, lady tailors, leather and tannery workers, papad makers, power loom workers, physically handicapped self – employed persons, primary milk producers, rickshaw pullers, safai karamcharis, slat growers, seri – culture workers, sugarcane cutters, tendu leaf collectors, toddy tappers, vegetable vendors, washerwomen, working women in hills, or such other categories of persons.

11 Section 6(1): “ A policy of insurance effected by any married man on his own life and expressed on the face of it to be for the benefit of his wife or wife and children or any of them shall ensure and be deemed to be a trust for the benefits of his wife or of his wife and children or any of them according to the interest so expressed and shall not so as long as any object of the trust remains be subject to the control of the husband or his creditors or form part of his estate.”

12 “Not Permanently Resident” means a person resident in India for employment of a specified duration (irrespective of the length thereof) or for a specific job or assignment, the duration of which does not exceed three years.
Section 2(19-A), Indian Stamp Act, 1899: “policy of Group Insurance” means any instrument covering not less than fifty or such smaller numbers as the Central Government may approve, either in consideration or a premium paid by an employer or by an employer and his employees jointly, engages to cover, with or without medical examination and for the sole benefit of persons other than the employer, the lives of all the employees or any class of them, determined by conditions pertaining to the employment, for such amount of insurance based upon a plan which precludes individual selection.