B. LIC ACT, 1956

The Insurance Act 1938 was the first legislation governing not only life insurance but also non-life insurance to provide strict control over insurance business. The demand for nationalization of life insurance industry was made repeatedly in the past but it gathered momentum in 1944 when a bill to amend Life Insurance Act, 1938 was introduced in the Legislative Assembly. However, it was much later on 19th of January 1956 that the life insurance in India was nationalized. Nationalization was accomplished in two stages; initially the management of the companies was takeover by means of an ordinance, and later, the ownership too by means of a comprehensive bill. The Parliament of India passed the Life Insurance Corporation Act on 19th of June 1956 and the Life Insurance Corporation of India was created on 1st September 1956.

MAIN PROVISIONS OF LIC ACT 1956

Short Title and Commencement

Section 1 of LIC Act says that this Act may be called Life Insurance Corporation Act, 1956 and it came into force on 1st July 1956 vide notification No. SRO 1456, dated 26th June 1956.

Establishment and incorporation of Life Insurance Corporation of India

Section 3 of LIC Act says, “With effect from such date 01-09-1956 vide Notification No. SRO 1937 dated 30.08.1956 as the Central Government by notification in the Official Gazette, appoint, there shall be established a Corporation shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, and may by its name sue and be sued.

Constitution of the Life Insurance Corporation

According to section 4, “the Corporation shall consist of such number of
persons not exceeding (fifteen)\(^3\) as the Central Government may think fit to appoint thereto and one of them shall be appointed by the Central Government as the Chairman thereof. Before appointing a person to be a member, the Central Government shall satisfy itself that that person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member, and the Central Government shall also satisfy itself from time to time with respect to every member that he has no such interest; and any person who is, or whom the Central Government proposes to appoint and who has consented to be, a member shall, whenever required by the Central Government so to do, furnish to it such information as the Central Government considers necessary for the performance of its duties”. Section 4 also says, a member who is in any way directly or indirectly interested in a contract made or proposed to be made by the Corporation shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest to the Corporation; and the member shall not take part in any deliberation or discussion of the Corporation with respect to that contract.

**Capital of the Corporation**

According to section 5 of LIC Act, 1956, the original capital of the Corporation shall be five crores of rupees provided by the Central Government after due appropriation made by Parliament by law for the purpose, and the terms and conditions relating to the provision of such capital shall be such as may be determined by the Central Government. The Central Government may, on the recommendation of the Corporation can reduce the capital of the Corporation to such extent and in such manner as the Central Government may determine.

**Functions of the Corporation**

According to Section 6 of LIC Act, 1956, subject to the rules, if any, made by the Central Government in this behalf, it shall be the general duty of the Corporation to carry on life insurance business, whether in or outside India, and the Corporation shall so exercise its powers under this Act as to secure that life insurance business is

\(^3\) Substituted with “Sixteen” by the Public Financial Institution laws (Amendment) Act, 1975 w.e.f. 16.2.1976
developed to the best advantage of the community. The Corporation shall have power—

- to carry on capital redemption business, annuity certain business or reinsurance business in so far as such reinsurance business appertains to life insurance business;

- subject to the rules, if any, made by the Central Government in this behalf; to invest the funds of the Corporation in such manner as the Corporation may think fit and to take all such steps as may be necessary or expedient for the protection or realization of any investment; including the taking over of and administering any property offered as security for the investment until a suitable opportunity arises for its disposal;

- to acquire, hold and dispose of any property for the purpose of its business;

- to transfer the whole or any part of the life insurance business carried on outside India to any other person or persons, if in the interests of the Corporation it is expedient so to do;

- to advance or lend money upon the security of any movable or immovable property or otherwise;

- to borrow or raise any money in such manner and upon such security as the Corporation may think fit;

- to carry on either by itself or through any subsidiary any other business in any case where such other business was being carried on by a subsidiary of an insurer whose controlled business has been transferred to and vested in the Corporation under Act;

- to carry on any other business which may seem to the Corporation to be capable of being conveniently carried on in connection with its business and calculated directly or indirectly to render profitable the business of the Corporation;

- to do all such things as may be incidental or conducive to the proper exercise of any of the powers of the Corporation.
This section also says that in the discharge of any of its function the Corporation shall act so far as may be on business principles.

**Power to impose conditions**

Section 6 (A) of this Act says that in entering into any arrangement, under Section 6, with any concern, the Corporation may impose such conditions as it may think necessary or expedient for protecting the interest of the Corporation and for securing that the accommodation granted by it is put to the best use by the concern and where any arrangement entered into by the Corporation under Section 6 with any concern provides for the appointment by the Corporation of one or more directors of such concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the concern, and any provision regarding share qualification, age limit, number of director, appointed by the Corporation in pursuance of the arrangement as aforesaid.

This section also says that any director appointed as aforesaid shall-

- hold office during the pleasure of the Corporation and may be removed or substituted by any person by order in writing by the Corporation;
- not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;
- not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.

**Transfer of assets and liabilities of existing insurers carrying on controlled business**

Section 7 of the Act says that on the appointed day (01.09.1956) there shall be transferred to and vested in the Corporation all the assets and liabilities appertaining to the controlled business of all insurers. The assets appertaining to the controlled

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4 inserted by the Public Financial Institutions Laws (Amendment) Act, 1975, w.e.f. 16.12.1976
business of a insurer shall be deemed to include all rights and powers, and all property, whether movable or immovable, appertaining to his controlled business, including, in particular, cash balances, reserve funds, investments, deposits and all other interests and rights in or arising out of such property as may be in the possession of the insurer and all books of account or documents relating to the controlled business of the insurer; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind then existing and appertaining to the controlled business of the insurer.

Section 7 also says that there any such assets are subject to any trust referred to in sub-section (6) of Section 27 of the Insurance Act or to any other trust for the benefit of policy-holders, the assets shall be deemed to have vested in the Corporation free from any such trust.

**Provident, superannuating and other life funds**

Section 8 of the Act explains that where an insurer whose controlled business is to be transferred to and vested in the Corporation under Section 7, has established a provident or superannuating fund or any other like fund for the benefit of his employees and constituted a trust in respect thereof (hereinafter in this section referred to as an existing trust), the moneys standing to the credit of any such fund on the appointed day, together with any other assets belonging to such fund, shall, stand transferred to and vest in the Corporation on the appointed day free from any such trust and where all the employees of the such insurer do not become employees of the Corporation under Section 11, the moneys and other assets belonging to any such fund shall be apportioned between the trustees of the fund and the Corporation in the prescribed manner; and in case of any dispute regarding such apportionment, the decision of the Central Government thereon shall be final. Section 8 also says that the Corporation shall, as soon as may be after the appointed day, constitute in respect of the moneys and other assets which are transferred to and vested in it under this section, one or more trusts having objects as similar to the objects of the existing trusts as in the circumstances may be practicable, and where all the moneys and other assets belonging to an existing trust are transferred to and vested in the Corporation under this section, the trustees of such trust, shall, as from the appointed day, be
discharged from the trust, except as respects things done or omitted to be done before the appointed day.

**General effect of vesting of controlled business**

Section 9 of the Act says that unless otherwise expressly provided by or under this Act, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which an insurer whose controlled business has been transferred to and vested in the Corporation is a party or which are in favor of such insurer shall in so far as they relate to the controlled business of the insurer be of as full force and effect against or in favor of the Corporation, as the case may be, and may be enforced or acted upon as fully and effectually as if, instead of the insurer, the Corporation had been a party thereto or as if they had been entered into or issued in favor of the Corporation. Further if on the appointed day any suit, appeal or other legal proceeding of whatever nature is pending by or against an insurer, then, in so far as it relates to his controlled business, it shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Corporation of the business of the insurer or of anything done under this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

**Provisions as to composite insurers**

As per section 10 of the LIC Act for the removal of doubts it is hereby declared that in any case where an insurer whose controlled business has been transferred to and vested in the Corporation under this Act is a composite insurer, the provisions of the preceding sections shall only apply to the extent to which any property appertains to his controlled business and to rights and powers acquired, and to debts, liabilities and obligations incurred, and to contracts, agreements and other instruments made by the insurer for the purposes of his controlled business and to legal proceedings relating to those purposes and the provisions of those sections shall be construed accordingly. By rules made in this behalf the Central Government may provide for

- determination of the question whether any property appertains to his
controlled business or whether any rights, powers, debts, liabilities or obligations were acquired or incurred or any contract, agreement or other instrument was made by the insurer for the purposes of his controlled business or whether any documents relate to those purposes;

- allocation of the paid-up capital or assets representing such paid-up capital, as the case may be, between the controlled business of the insurer and any other business;

- substituting for any agreements entered into by any insurer partly for the purposes of his controlled business and partly for other purposes separate agreements in the requisite terms and for any apportionments and indemnities consequent thereon;

- severance of leases comprising property of which part only is transferred to and vested in the Corporation by virtue of this Act and for apportionments consequent on such severance;

- apportionment and the making of financial adjustments with respect to any debts, liabilities or obligations incurred by any such insurer partly for the purposes of his controlled business and partly for other purposes and for any necessary variation of mortgages and encumbrances relating to such debts, liabilities or obligations;

- apportionment of the moneys and other assets belonging to any provident or superannuating fund or any other like fund to which the provisions of Section 8 do not apply between persons employed in connection with the controlled business for an insurer and other persons;

- any other matters supplementary to or consequential on the matters aforesaid for which appears to be necessary or expedient.

Section 10 also says that all rules made under this section shall be laid for not less than thirty days before both House of Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following. In case where at any time before the expiration of six months from the appointed day a question has
arisen under this section or under any rules made there under as to whether any property is or was held or used by the insurer for the purposes of his controlled business, the question shall be referred to the Tribunal for decision.

**Transfer of service of existing employees of insurers to the Corporation**

With reference to section 11 of the Act every whole-time employee of an insurer whose controlled business has been transferred to and vested in the Corporation and who was employed by the insurer wholly or mainly in connection with his controlled business immediately before the appointed day shall, on and from the appointed day, become an employee of the Corporation, and shall hold his office therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same on the appointed day if this Act had not been passed, and shall continue to do so unless and until his employment in the Corporation is terminated or until his remuneration, terms and conditions are duly altered by the Corporation:

Provided that nothing contained in this sub-section shall apply to any such employee who has, by notice in writing given to the Central Government prior to the appointed day, intimated his intention of not becoming an employee of the Corporation. [Further if the Central Government is satisfied that for the purpose of securing uniformity in the scales of remuneration and the other terms and conditions of service applicable to employees of insurers whose controlled business has been transferred to, and vested in, the Corporation, it is necessary so to do, or that, in the interests of the Corporation and its policy-holders a reduction in the remuneration payable, or a revision of the other terms and conditions of service applicable, to employees or any class of them is called for, the Central Government may, notwithstanding anything contained in sub-section (1), or in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, or in any award, settlement or agreement for the time being in force, alter (whether by way of reduction or otherwise) the remuneration and the other terms and conditions of service to such extent and in such manner as it thinks fit; and if the alteration is not acceptable]
to any employee, the Corporation may terminate his employment by giving him compensation equivalent to three months’ remuneration unless the contract of service with such employee provides for a shorter notice of termination]⁵. Section 11 also says that if any question arises as to whether any employee was employed wholly or mainly in connection with the controlled business of an insurer immediately before the appointed day the question shall be referred to the Central Government whose decision shall be final and notwithstanding anything contained in the Industrial Dispute Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any employee of an insurer to the Corporation shall not entitle any such employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

**Transfer of services of existing employees of chief agents of insurers to the Corporation in certain cases**

Section 12 of the Act says that subject to such rules as the Central Government may make in this behalf, every whole-time salaried employee of a chief agent of an insurer whose controlled business has been transferred to and vested into the Corporation and,- (a) who was employed by the chief agent wholly or mainly in connection with the controlled business of the insurer; (b) whose salary on the appointed day did not exceed five hundred rupees per mensem; and (c) who was in the employment of the chief agent for a continuous period of not less than one year immediately before the appointed day; shall, on and from the appointed day, become an employee of the Corporation and the provisions of Section 11 shall, so far as may be, apply in relation to such employee as they apply in relation to a whole-time employee of the insurer.

**Duty to deliver possession of property and documents relating thereto**

Section 13 of the Act says that where any property appertaining to the controlled business of an insurer has been transferred to and vested in the Corporation under this Act, then-

⁵ substituted by Life Insurance Corporation (Amendment) Act, 1957
• every person, in whose possession, custody or control any such property may be, shall deliver the property to the Corporation forthwith;

• any person who, on the appointed day, has in his possession, custody or control any books, documents or other papers relating to such controlled business shall be liable to account for the said books, documents and papers to the Corporation, and shall deliver them to the Corporation or to such person as the Corporation may direct and, in particular, all the assets of an insurer appertaining to life insurance business held in deposit by the Reserve Bank of India under the Insurance Act or by trustees in trust shall be delivered to the Corporation. Section 13 also says that without prejudice to the other provisions contained in this section, it shall be lawful for the Corporation to take all necessary steps for securing possession of all properties, which have been transferred to and vested in it under this Act.

Power of Corporation to modify contracts of life insurance in certain cases

According to section 14 of the Act the Corporation may, having regard to the financial condition on the appointed day of any insurer whose controlled business has been transferred to and vested in the Corporation, reduce the amounts of insurance under contracts of life insurance entered into by such insurer before the 19th day of January, 1956, in such manner and subject to such conditions as it thinks fit. Provided that no such reduction shall be made except in accordance with a scheme prepared by the Corporation in this behalf and approved by the Central Government.

Right of Corporation to seek relief in respect of certain transactions of the insurer

Section 15 of the Act says that where an insurer whose controlled business has been transferred to and vested in the Corporation under this Act has, at any time within five years before the 19th day of January, 1956,

• made any payment to any person without consideration;

• sold or disposed of any property of the insurer without consideration or for an inadequate consideration;
• acquired any property or rights for an excessive consideration;
• entered into or varied any agreement so as to require an excessive consideration to be paid or given by the insurer;
• entered into any other transaction of such an onerous nature as to cause a loss to, impose a liability on, the insurer exceeding any benefit accruing to the insurer;
• if a composite insurer, transferred any property from his life department to his general department without consideration or for an inadequate consideration; and the payment, sale, disposal, acquisition, agreement or variation thereof or other transaction or transfer was not reasonably necessary for the purpose of the controlled business of the insurer or was made with an unreasonable lack of prudence on the part of the insurer, regard being had in either case to the circumstances at the time, the Corporation may apply for relief to the Tribunal in respect of such transaction, and all parties to the transaction shall, unless the Tribunal otherwise directs, be made parties to the application. The Tribunal may make such order against any of the parties to the application as it thinks just having regard to the extent to which those parties were respectively responsible for the transaction or benefited from it and all the circumstances of the case. Further, where an application is made to the Tribunal under this section in respect of any transaction and the application is determined in favor of the Corporation, the Tribunal shall have exclusive jurisdiction to determine any claims outstanding in respect of the transaction.

Compensation for acquisition of controlled business

According to Section 16 of the LIC Act, 1956, where the controlled business of an insurer has been transferred to and vested in the Corporation under this Act, compensation shall be given by the Corporation to that insurer in accordance with the principles contained in the First Schedule. Further the amount of the compensation to be given in accordance with the aforesaid principles shall be determined by the Corporation in the first instance, and if the amount so determined is approved by the Central Government it shall be offered to the insurer in full satisfaction of the
compensation payable to him under this Act, and if, on the other hand, the amount so offered is not acceptable to the insurer he may within such time as may be prescribed for the purpose have the matter referred to the Tribunal for decision.

**Constitution of tribunals**

Section 17 of the Act says that the Central Government may for the purposes of this Act constitute one or more Tribunals and each of the Tribunals shall consist of three members appointed by the Central Government one of whom shall be a person who is, or has been, a Judge of a High Court or has been a Judge of the Supreme Court, and he shall be the Chairman thereof, and a Tribunal may choose one or more persons possessing special knowledge of any matter relating to any case under inquiry to assist the Tribunal in determining any question which has to be decided by it under this Act. Further, every Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters:

- summoning and enforcing the attendance of any person and examining him on oath;
- requiring the discovery and production of documents;
- receiving evidence on affidavits;
- issuing commissions for the examination of witnesses or documents.

Every Tribunal shall have power to regulate its own procedure and decide all matters within its competence, and may review any of its decisions in event there being a mistake on the face of the record or correct any arithmetical or clerical error therein.

**Offices, branches and agencies**

According to the Section 18 of LIC Act, the central office of the Corporation shall be at such place as the Central Government may, by notification in the Official Gazette, specify. The Corporation shall establish a zonal office at each of the following places, namely, Bombay, Calcutta, Delhi, Kanpur & Madras, and subject to the previous approval of the Central Government, may establish such other zonal
offices as it thinks fit, further the territorial limits of each zone shall be such as may be specified by the Corporation. There may be established as many divisional offices and branches in each zone as the Zonal Manager thinks fit.

Committees of the Corporation

Section 19 of the Act says that the Corporation may entrust the general superintendence and direction of its affairs and business to an Executive Committee consisting of not more than five of its members and the Executive Committee may exercise all powers and do all such acts and things as may be delegated to it by the Corporation. The Corporation may also constitute an Investment Committee for the purpose of advising it in matters relating to the investment of its funds, and the Investment Committee shall consist of not more than [seven members of whom not less than three]\(^6\) shall be members of the Corporation and the remaining members shall be persons (whether members of the Corporation or not) who have special knowledge and experience in financial matters particularly, matters relating to investment of funds. The Corporation may constitute such other Committees as it may think fit for the purpose of discharging such of its functions as may be delegated to them.

Appointment of managing directors

According to Section 20 of the LIC Act, 1956, the Corporation may appoint one or more persons to be the Managing Director or Directors of the Corporation, and every Managing Director shall be a whole-time officer of the Corporation, who shall exercise such powers and perform such duties as may be entrusted or delegated to him by the Executive Committee or the Corporation.

Directions of Central Government

Section 21 of the Act says that, in the discharge of its functions under this Act, the Corporation shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing; and if any question arises whether a direction relates to a matter of policy involving public

\(^6\) substituted with words “eight members of whom not less than four” by the Public Financial Institutions Laws (Amendment) Act 1975, w.e.f. 16.02.1976
interest the decision of the Central Government thereon shall be final.

**Zonal managers**

Section 22 of the Act says that the Corporation may entrust the superintendence and direction of the affairs and business of a zonal office to a person, whether a member or not, who shall be known as the Zonal Manager. The Zonal Manager shall perform all such functions of the Corporation as may be delegated to him with respect to the area within the jurisdiction of the zonal office and the Corporation may constitute for each zone a Board consisting of such number of persons as it thinks fit to appoint thereto for the purpose of advising the Zonal Manager in respect of such matters as are referred to it under the regulations made by the Corporation. This section also says that the Corporation shall constitute in the prescribed manner for each zonal office an Employees and Agents Relations Committee consisting of such number of persons as it thinks fit and every such Committee shall consist of representatives of the Corporation and of its employees and agents, so however, that the number of representatives of the employees and agents on the Committee shall not be less than the number of representatives of the Corporation and it shall be the duty of the Committee to advise the Zonal Manager on matters which relate to the welfare of the employees and agents of the Corporation or which are likely to promote and secure amity and good relations between them and the Corporation.

**Staff of the Corporation**

Section 23 of the Act says that for the purpose of enabling it to discharge its functions under this Act, the Corporation may employ such number of persons as it thinks fit and every person employed by the Corporation or whose services have been transferred to the Corporation under this Act, shall be liable to serve anywhere in India.

**Funds of Corporation**

Section 24 of the Act states that the Corporation shall have its own fund and all receipts of the Corporation shall be credited thereto and all payments of the Corporation shall be made there from.
Audit

As per section 25 of the Act the accounts of the Corporation shall be audited by auditors duly qualified to act as auditors of companies under the law for the time being in force relating to companies. The auditors shall be appointed by the Corporation with the previous approval of the Central Government and shall receive such remuneration from the Corporation as the Central Government may fix. Every auditor in the performance of his duties shall have reasonable time to access the books, accounts and other documents of the Corporation. Section 25 also says that the auditors shall submit their report to the Corporation and shall also forward a copy of the report to the Central Government.

Actuarial valuations

According to Section 26 of the LIC Act, 1956, the Corporation shall at least once in every two years cause an investigation to be made by actuaries into the financial condition of the [life insurance business of the Corporation, including a valuation of the liabilities of the Corporation in respect thereto]⁷, and submit the report of the actuaries to the Central Government.

Annual report of activities of Corporation

Section 27 of the Act says that the Corporation shall, as soon as may be, after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed a report giving an account of its activities during the previous financial year, and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Corporation in the next financial year.

Surplus from life insurance business how to be utilized

Section 28 of the Act says that if as a result of any investigation undertaken by the Corporation under Section 26 any surplus emerges, ninety-five percent of such surplus or such higher percentage thereof as the Central Government may approve shall be allocated to or reserved for the life insurance policy holders of the Corporation and after meeting the liabilities of the Corporation, if any, which may arise under Section 9, the remainder shall be paid to the Central Government or, if

⁷ Substituted by Life Insurance Corporation (Amendment) Act, 1965
that Government so directs, be utilized for such purposes and in such manner as that Government may determine.

**Profits from any business (other than life insurance business) how to be utilized**

If for any financial year profits accrue from any business (other than life insurance business) carried on by the Corporation, then, after making provision for reserves and other matters for which provision is necessary or expedient, the balance of such profits shall be paid to the Central Government.

**Reports to be laid before Parliament**

As per Section 29 of the Act the Central Government shall cause the report of the auditors under Section 25, the report of the actuaries under Section 26 and the report giving an account of the activities of the Corporation under Section 27 to be laid before both Houses of Parliament as soon as may be after each such report is received by the Central Government.

**Corporation to have the exclusive privilege of carrying on life insurance business**

According to Section 30 of the LIC Act, 1956, except to the extent otherwise expressly provided in this Act, on and from the appointed day the Corporation shall have the exclusive privilege of carrying on life insurance business in India; and on and from the said day any certificate of registration under the Insurance Act held by any insurer immediately before the said day shall cease to have effect in so far as it authorizes him to carry on life insurance business in India.

**Exclusive privilege of Corporation to cease**

As per section 30A notwithstanding anything contained in this Act, the exclusive privilege of carrying on life insurance business in India by the Corporation shall cease on from the commencement of Insurance Regulatory and Development Authority Act, 1999 and the Corporation shall thereafter carry on life insurance business in India in accordance with the provisions of the Insurance Act, 1938 (4 of 1938).

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8 Section 28A – inserted by Life Insurance Corporation (Amendment) Act, 1965
Exception in the case of insurance business in respect of persons residing outside India

Section 31 of the Act says that notwithstanding anything contained in Section 30 or in the Insurance Act, the Central Government may, by order, permit any person who has made an application in that behalf, to carry on life insurance business in India in respect of the lives of persons ordinarily resident outside India, subject to such restrictions and conditions as may be specified in the order and any such order shall be deemed to have effect as if it were a certificate of registration issued by the Controller to such person under Section 3 of the Insurance Act in respect of that class of business and nothing mentioned above shall authorize any person permitted to carry on life insurance business of the nature to insure the life of any person ordinarily resident outside India, during any period of his temporary residence in India.

Power of Corporation to have official seal

Section 32 of the Act says that the Corporation may have for use in any zonal office, divisional office or in any office outside India an official seal which shall be a facsimile of the common seal of the Corporation, with the addition on its face of the name of the zonal office, divisional office or other office where it is to be used, and any such official seal may be affixed to any deed or document to which the Corporation is a party.

Requirement of foreign laws to be complied with

According to Section 33 of the Act where any property or rights appertaining to the controlled business of an insurer are transferred to and vested in the Corporation under this Act or would be so transferred and vested but for the fact that such transfer and vesting are governed otherwise than by the law of India, the insurer shall comply with such directions as may be given to him by the Corporation for the purpose of securing that the ownership of the property or, as the case may be, that the right is effectively transferred to the Corporation.
Reverting of certain shares vested in the Administrator General

Section 34 of the Act says that notwithstanding anything contained in the Insurance Act, all shares which have vested in the Administrator General of any State under sub-section (8) of Section 6A of that Act and which have not been disposed of in accordance with the provisions of that sub-section before the appointed day, shall, on payment of the amount of expenditure, if any, incurred by the Administrator General in relation to such shares by the persons who would have been entitled to those shares if the said sub-section had not been enacted, revests in such persons.

Repatriation of assets and liabilities in the case of foreign insurers in certain cases

Section 35 of the Act says that any insurer incorporated outside India may, before the appointed day, make an application to the Central Government stating that among the assets appertaining to the controlled business of the insurer there are assets brought into India by the insurer for the purpose of building up his life insurance business in India which, notwithstanding anything contained in Section 7, should not be transferred to and vested in the Corporation and further on receipt of an application, the Central Government shall determine the value of the assets of the insurer appertaining to this controlled business in existence on the 31st day of December, 1955, computed as at that date in accordance with the provisions contained in paragraph 3 of Part B of the First Schedule, and deduct there from the total amount of the liabilities of the insurer appertaining to his controlled business in existence on the 31st day of December, 1955, computed as at that date in accordance with the provisions contained in the Second Schedule; and if there is any excess, the Central Government may, by order, direct that such assets equivalent in value to the excess as may be specified in the order shall not be transferred to or vested in the Corporation, or where the order is made after the appointed day, that the Corporation shall be divested of the said assets. Further, in case of any insurer incorporated outside India, the Central Government may also, by order, direct that any such liabilities in respect of life insurance policies expressed in any foreign currency issued on the lives of persons who are not citizens of India as are specified in the order together with any such assets necessary to meet the liabilities, as may be so specified, shall not be
transferred to or vested in the Corporation or, if the order is made after the appointed day, that the Corporation shall be divested of such liabilities and assets as aforesaid and the amount of liabilities in respect of the policies referred to in an order made above shall be computed as at the 31st day of December, 1955- (a) in any case where in respect of the insurer concerned an order has been made in accordance with the provisions contained in clause (b) of the Second Schedule; and (b) in any other case, in accordance with method A specified in the Second Schedule. The Corporation in such manner shall carry out every order made by the Central Government under this section as the Central Government may direct.

**Contracts of chief agents and special agents to terminate**

Section 36 of the Act says that notwithstanding anything contained in the Insurance Act or in any other law for the time being in force, every contract appertaining to controlled business subsisting immediately before the appointed day, -

- between an insurer and his chief agent or between an insurer and a special agent; or

- between the chief agent of an insurer and a special agent;

shall, as from the appointed day, cease to have effect and all rights accruing to the chief agent or the special agent under any such contract shall terminate on that day.

Provided that in every such case compensation shall be given by the Corporation to the chief agent or the special agent, as the case may be, in accordance with the principles contained in the Third Schedule, and the provisions of Section 16 shall, so far as may be, apply in every such case.

**Policies to be guaranteed by Central Government**

The sums assured by all policies issued by the Corporation including any bonuses declared in respect thereof and, subject to the provisions contained in Section 14 the amounts assured by all policies issued by any insurer the liabilities under which have vested in the Corporation under this Act, and all bonuses declared in respect thereof, whether before or after the appointed day, shall be guaranteed as to payment in cash by the Central Government.
Liquidation of Corporation

Sec. 38 of the Act says that no provision of law relating to the winding up of companies or corporations shall apply to the Corporation established under this Act, and the Corporation shall not be placed in liquidation save by order of the Central Government and in such manner as that Government may direct.

Special provision for winding up of certain insurers

Sec. 39 of the Act says that where any insurer being a company (other than a composite insurer) whose controlled business has been transferred to and vested in the Corporation under this Act has in accordance with the provisions of this Act collected and distributed any moneys paid to him by the Corporation by way of compensation or otherwise and has also complied with any direction given to him by the Corporation for the purpose of securing that the ownership of any property or any right is effectively transferred to the Corporation, the Central Government may on application being made to it in this behalf by such insurer grant a certificate to the insurer that there is no reason for the continued existence of the insurer and where such a certificate has been granted shall cause the certificate to be published in the Official Gazette and upon the publication thereof the insurer shall be dissolved.

Penalty for withholding property

Sec. 40 of the Act says that if any person willfully withholds or fails to deliver to the Corporation as required by Section 13, any property or any books, documents or other papers which may be in his possession or unlawfully retains possession of any property of an insurer which has been transferred to and vested in the Corporation under this Act or willfully applies any such property to purposes other than those expressed in or authorized by this Act, he shall, on the complaint of the Corporation, be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Tribunal to have exclusive jurisdiction in certain matters

Sec. 41 of the Act says that no civil court shall have jurisdiction to entertain or adjudicate upon any matter, which a Tribunal is empowered to decide or determine under this Act.
Enforcement of decisions of tribunals

Sec. 42 of the Act says that any decision of a Tribunal may be enforced in any civil court within the local limits of whose jurisdiction the person against whom the decision is to be enforced actually and voluntarily resides or carries on business or personally works for gain or owns any property, as if it were a decree passed by that court.

Application of the Insurance Act

Sec. 43 of the Act says that the following sections of the Insurance Act shall, so far as may be, apply to the Corporation as they apply to any other insurer, namely: Section 2, 2B, 3, 18, 26, 33, 38, 39, 41, 45, 46, 47A, 50, 51, 52, 110A, 110B, 110C, 119, 121, 122 and 123. Further the Central Government shall as soon as may be after the commencement of this Act, by notification in the Official Gazette, direct that the following sections of the Insurance Act shall apply to the Corporation subject to such conditions and modifications as may be specified in the notification, namely: Sections 2D, 10, 11, 13, 14, 15, 20, 21, 22, 23, 25, 27A, 28A, 35, 36, 37, 40, 40A, 40B, 43, 44, 102 to 106, 107 to 110, 111, 113, 114 and 116A.

[2(A) Section 42 of the Insurance Act shall have effect in relation to the issue to any individual of a license to act as an agent for the purpose of soliciting or procuring life insurance business for the Corporation as if the reference to an officer authorized by the Controller in this behalf thereof included a reference to an officer of the Corporation authorized by the Controller in this behalf] 10.

Sec. 43 of the Insurance Act further says that the Central Government may, by notification in the Official Gazette direct that all or any of the provisions of the Insurance Act other than those specified above shall apply to the Corporation subject to such conditions and modifications as may be specified in the notification and every notification issued shall be laid for not less than 30 days before both Houses of Parliament as soon as possible after it is issued, and shall be subject to such modifications as Parliament may make during the session in which it is so laid or the session immediately following.

10 inserted by Life Insurance Corporation (Amendment) Act, 1957
Deduction of income-tax not to be made on interest or dividend\(^{11}\)

Sec. 43 A of the Act says that notwithstanding anything contained in Section 193 or Section 194 of the Income-tax Act, 1961 (43 of 1961), no deduction of income-tax shall be made on any interest or dividend payable to the Corporation in respect of any securities or shares owned by it or in which it has full beneficial interest.

Act not to apply in certain cases

Sec. 44 of the act says that nothing contained in this Act shall apply in relation to-(a) any insurer whose business is being voluntarily wound up or is being wound up under the orders of the court; (b) any insurer to whom the Insurance Act does not apply by reason of the provisions contained in Section 2E thereof; (c) any composite insurer in respect of the management of whose affairs an Administrator has been appointed under Section 52A of the Insurance Act; (d) the scheme run by the Central Government known as the Post Office Life Insurance Fund; (e) any approved superannuating fund as defined in clause (a) of Section 58N of the Indian Income-Tax Act, 1922 (11 of 1922), which is in existence on the appointed day; (f) any scheme in existence on the appointed day or any scheme framed after the appointed day with the approval of the Central Government whereby, in consideration of certain compulsory deductions made by Government from the salaries of its employees as part of the conditions of service, the payment of money is assured by Government on the death of the employee concerned or on the happening of any contingency dependent on his life; (g) [any Family Pension Scheme framed under the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948 (46 of 1948) or the Employees’ Provident Fund and Family Pension Fund Act, 1952 (19 of 1952) for the purpose of providing family pension and life assurance benefits to the employees covered by the said Scheme]\(^{12}\).

Special provisions regarding transfer of controlled business of certain composite insurers

Sec. 45 of the Act says that notwithstanding anything contained in clause (c)

\(^{11}\) inserted by Finance Act, 1976, w.e.f. 01.06.1976

of Section 44, the Central Government may, by notification in the Official Gazette, direct that on and with effect from such date as may be specified in the notification, the assets and liabilities appertaining to the controlled business of a composite insurer in respect of the management of whose affairs an Administrator has been appointed under Section 52A of the Insurance Act shall be transferred to and vested in the Corporation, and on the issue of such a notification the provisions of this Act shall, so far as may be, apply in relation to such insurer and to the transfer and vesting of the assets and liabilities of his controlled business in the Corporation, as they apply in relation to all other insurers and to the transfer and vesting of the assets and liabilities of their controlled business in the Corporation, subject to the modification that references in this Act to the appointed day shall be construed as reference to the day specified in the notification.

**Defects in constitution of Corporation or Committees not to invalidate acts or proceedings**

Sec. 46 of the Act says that no act or proceeding of the Corporation or of any Committee of the Corporation shall be called in question on the ground merely of the existence of any vacancy or defect in the constitution of the Corporation or Committee, as the case may be.

**Protection of action taken under Act**

Sec. 47 of the Act says that no suit, prosecution or other legal proceeding shall lie against any member or employee of the Corporation for anything which is in good faith done or intended to be done under this Act.

**Power to make rules**

Sec. 48 of the Act says that The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act, and in particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

- the term of office and the conditions of service of members;
- the manner in which the moneys and other assets belonging to any such fund
as is referred to in Section 8 shall be apportioned between the trustees of the fund and the Corporation;

- the services which the chief agent should have rendered for the purpose of the proviso to Section 12;
- the terms and conditions of service of employee and agents of the Corporation, including those who became employees and agents of the Corporation on the appointed day under this Act\(^\text{13}\)
- the jurisdiction of the Tribunals constituted under Section 17;
- the manner in which, and the persons to whom, any compensation under this Act may be paid;
- the time within which any matter which may be referred to a Tribunal for decision under this Act may be so referred;
- the manner in which and the conditions subject to which investments may be made by the Corporation;
- the manner in which an Employees and Agents Relations Committee may be constituted for each zonal office;
- the form in which the report giving an account of the activities of the Corporation shall be prepared;
- the conditions subject to which the Corporation may appoint employees;
- the fees payable under this Act and the manner in which they are to be collected;
- any other matter which has to be or may be prescribed.

Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in

\(^{13}\) Inserted by Life Insurance Corporation (Amendment) Act, 1981, w.e.f. 20.6.1979.
making any modification in the rule shall thereafter have effect only in such modified form or to be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule\(^{14}\).

**Power to make regulations**

Sec. 49 of the Act says that the Corporation may, with the previous approval of the Central Government, by notification in the Gazette of India, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is expedient for the purpose of giving effect to the provisions of this Act, and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for—

- the powers and functions of the Corporation which may be delegated to the Zonal Managers;
- the method of recruitment of employees and agents of the Corporation [and the terms and conditions of service of such employees or agents]\(^{15}\);
- the number, term of office and conditions of service of members of Boards constituted under Section 22;
- the territorial limits of each zone established under this Act and the business to be transacted in each zone;
- the manner in which the Fund of the Corporation shall be maintained;
- the maintenance of separate funds and accounts at each of the zonal offices;
- the jurisdiction of each divisional office and the establishment of Councils representative of policy-holders in each area served by a divisional office for the purpose of advising the divisional office in respect of any matter which may be referred to it;
- the conduct of business at meetings of the Corporation;

\(^{14}\) Substituted by the Public Financial Institutions Laws (Amendment), 1975, w.e.f. 16.2.1976

\(^{15}\) omitted by Life Insurance Corporation (Amendment) Act, 1981 w.e.f. 31.01.1981
• the formation of Committees of the Corporation and the delegation of powers and functions of the Corporation to such Committees, and the conduct of business at meetings of such Committees;

• the form and manner in which policies may be issued and contracts binding on the Corporation may be executed;

• the classification of policies, whether issued by the Corporation or by any insurer whose controlled business has been transferred to and vested in the Corporation, for the purpose of declaring differential bonuses, wherever necessary;

• the manner in which and the intervals within which the accounts of the various zonal offices, divisional offices and branch offices may be inspected and their accounts audited;

• the conditions subject to which any payment may be made by the Corporation.

Every regulation made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period to thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity anything previously done under that regulation.
C. IRDA ACT, 1999

In April 1993, the Government of India appointed the Committee on the Reform of the Insurance Sector. The Committee headed by Sri R.N. Malhotra, the former Governor of the Reserve Bank of India was to assess the strengths and weaknesses of the insurance industry and make recommendations for change in its structure, functioning and the general policy framework keeping in mind the reforms underway in other parts of the financial sector and economy.

The Malhotra Committee submitted its report to the government on 7th January 1994 recommended, inter alia, the establishment of strong and effective Insurance Regulatory Authority (IRA) in the form of a statutory autonomous board on the lines of Securities and Exchange Board of India (SEBI). With reference to its recommendation for the entry of the private sector in insurance business, the Committee viewed that allowing some foreign insurance companies could be useful in the context of India’s objective of integrating with the global economy. The recommendations are such as to bring far-reaching changes in the structure of the insurance industry in a manner to virtually privatize it.

On liberalization of the insurance industry, the Malhotra Committee recommended that\textsuperscript{16}:

- The private sector should be allowed to enter insurance business. No single company should be allowed to transact both life and general insurance business. The number of new entrants should be controlled.

- The minimum paid up capital for a new entrant should be Rs. 100 crore. However, a lower capital requirement can be prescribed for state level co-operative institutions taking up life insurance business.

- The promoters’ holding in a private company should not exceed 40% of the total. However, if the promoters wish to start with a higher holding, they should be permitted to do so provided their holding is brought down to 40% within a

\textsuperscript{16} Report of Committee on reforms in Insurance Sector, January 1994, P-92
specified period of time through public offering. No person other than the promoters should be allowed to hold more than 1% of the equity. Promoters should at no time hold less than 26% of the paid up capital.

- If and when entry of foreign insurance companies is permitted, it should be done on selective basis. They should be required to float an Indian company for the purpose, preferably in joint venture with an Indian partner.

- Before the private sector is allowed to enter the insurance field, the Controller of Insurance should start functioning effectively... et al.

In December 1996 (pre-budget session), government tabled the IRA Bill in the Parliament as per the recommendations of the Malhotra Committee. The Bill sought to give statutory powers to the interim IRA and transfer the powers of the Controller of Insurance to the IRA, allowing it the duties and functions listed in the Insurance Act 1938, the LIC Act 1956 and the General Insurance Business (Nationalization) Act 1972. But clause 26 of the Bill, which states “the powers of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force”, raises eyebrows in the industry\(^\text{17}\).

In February 1997, the Finance Minister took his first cautious step towards opening up of the insurance sector by permitting private Indian companies to enter health insurance business. In his Budget-speech he said, “Only a few Indian companies, Indian controlled and with majority Indian ownership will be permitted to enter the health insurance business”. He also provided considerable operational flexibility to the state owned LIC and GIC to help them compete and identified pension funds as the new focus area.

Budget for 1997-98 ultimately was passed on 9\(^\text{th}\) May 1997 in which private opening of health insurance as well as giving legal status to the IRA was passed in spite of much controversy from the part of leftist parties. On 6\(^\text{th}\) August 1997, the Government withdrew the IRA Bill in parliament due to strong opposition from the left parties and BJP.

By passage of time again in 1998 in order to provide better insurance coverage

\(^{17}\) The Hindu, 30.12.1996
to our citizens and also to augment the flow of long term resources for financing infrastructure, it was proposed by the Government to open the insurance sector to competition from private Indian Companies. It was also proposed to give a statutory character to the Interim Insurance Regulatory Authority by enacting a legislation in this regard and amend Sec. 30 of the Life Insurance Corporation Act, 1956, and Sec. 24 of the General Insurance Business (Nationalization), Act, 1972 to permit the entry of Indian Companies into the insurance sector and to make certain consequential amendments to the Insurance Act, 1938.

The Legislature enacted the Insurance Regulatory and Development Authority Act, 1999 (Act 41 of 1999) to provide for the establishment of an Authority to protect the interests of holders of insurance policies, to regulate, promote and ensure orderly growth of insurance industry. The President of India assented to this Act on 29th December 1999.

The proposed Authority shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract. It will consist of a chairperson and other members not exceeding nine in numbers of whom not more than five shall serve full time, to be appointed by the Central Government from amongst person of ability, integrity and standing who have knowledge or experience of life insurance, general insurance, actuarial science, finance, economics, law, accountancy, administration or any other discipline which in the opinion of the Central Government shall be useful to the Authority. The chairperson and other whole time members shall hold office for a term of 5 years or until the age of 65 years in the case of chairperson and 62 years in the case of other whole time members, whichever is earlier and they shall be eligible for reappointment subject to age consideration. A part time member shall hold office for a term not exceeding 5 years.

The duties, powers and functions of Authority, inter alia, are:-

- to issue to the applicant a certificate of registration, to renew, modify, withdraw, suspend or cancel such registration;

- protecting of the interests of the policy holders in matters concerning assigning of
policy, nomination by policy holders, insurable interest, settlement of insurance claim, surrender value of policy, and other terms and conditions of contracts of insurance;

- specifying requisite qualifications and practical training for insurance intermediaries and agents;
- specifying the code of conduct for surveyors and loss assessors;
- promoting efficiency in the conduct of insurance business;
- promoting and regulating professional organizations connected with the insurance and re-insurance business;
- levying fees and other charges for carrying out the purposes of the Act;
- calling for information from, undertaking inspection of, conducting enquiries and investigations including audit of the insurers, insurance intermediaries and other organizations connected with the insurance business;
- control and regulation of the rates, advantages, terms and conditions that may be offered by insurers in respect of general insurance business not so controlled and regulated by the Tariff Advisor Committee under Sec. 64-U of the Insurance Act, 1938;
- prescribing the form and manner in which books of account shall be maintained and statement of accounts will be rendered by insurers and insurance intermediaries;
- regulating investment of funds by insurance companies;
- regulating maintenance of margin of solvency;
- adjudication of disputes between insurers and intermediaries;
- exercising such other powers as may be prescribed.

MAIN PROVISIONS OF THE IRDA ACT – 1999

Short title, extent and commencement

As per section 1 of IRDA Act this Act may be called the Insurance Regulatory
and Development Authority Act, 1999 and it extends to whole of India. The Act came into force on 19th April 2000 vide S.O. 397(E) dated 19th April 2000.

**Establishment and incorporation of Authority**

Section 3 of the IRDA Act says that with effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, an Authority to be called “the Insurance Regulatory & Development Authority” The Authority shall be a body having perpetual succession and a common seal with power, subject to provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued. The head office of the Authority shall be at such place as decided by the Central Government from time to time. The Authority may establish offices at other places in India.

**Composition of Authority**

Section 4 of IRDA Act deals with composition of the Authority and states that the Authority shall consist of members, who include a chairperson, not more than five whole time members, and not more than four part time members. These members are to be appointed by the Central Government from amongst persons of ability, integrity and standing with knowledge or experience in life insurance, general insurance, actuarial science, finance, economics, law, accountancy, administration or any other discipline which in the opinion of the Central Government, be useful to the Authority. The Central Government shall, while appointing the chairperson and the whole time members ensure that at least one person each is a person having knowledge or experience in life insurance, general insurance or actuarial science, respectively.

**Tenure of office of Chairperson and other members**

Section 5 of the IRDA Act says that the Chairperson and other whole-time members shall hold the office for a term of five years from the date on which he enters his office and shall be eligible for reappointment. However no person shall hold office as a Chairperson after he has attained the age of sixty-five years and no person shall hold office as a whole-time member after he has attained the age of sixty-two years. A part-time member shall hold office for a term of five years from the date on
which he enters upon his office. A member may relinquish his office by giving in writing to the Central Government a notice of not less than three months; or be removed from his office in accordance with the provisions of section 6.

**Removal from office**

According to section 6 of this Act the Central Government may remove any member from office; who-

(a) is, or at any time has been, adjudged as an insolvent; or

(b) has become physically or mentally incapable of acting as a member; or

(c) has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has so abused his position as to render his continuation in office detrimental to the public interest.

No such member shall be removed under clause (d) or clause (e) unless he has been given a reasonable opportunity of being heard in the matter.

**Salary and allowances of Chairperson and members**

Section 7 of the Act specifies the salary and allowances payable to, and other terms and conditions of service of, the members other than part-time members shall be such as may be prescribed. The part-time members shall receive such allowances as may be prescribed; this section also says that the salary, allowances and other conditions of service of a member shall not be varied to his disadvantage after appointment.

**Bar on future employment of members**

As per section 8 of IRDA Act the Chairperson and the whole-time members shall not accept any employment either under the Central Government or under any State Government; or any appointment in any company in the insurance sector for a period of two years from the date on which they cease to hold office as such, except
with the prior approval of the Central Government.

**Administration powers of Chairperson**

Section 9 of the Act specifies that the Chairperson shall have the powers of general superintendence and direction in respect of all administrative matters of the Authority.

**Meetings of Authority**

As per Section 10 of IRDA Act the Authority shall meet at such times and places and shall observe such rules and procedures in regard to transaction of business at its meetings (including quorum at such meetings) as may be determined by the regulations. The Chairperson, or if for any reason he is unable to attend a meeting of the Authority, any other member chosen by the members present from amongst themselves at the meeting, shall preside at the meeting. All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the members present and voting. In the event of equality of votes, the Chairperson, or in his absence, the person presiding shall have a second or casting vote. The Authority may make regulations for the transaction of business at its meetings.

**Vacancies, etc., not to invalidate proceedings of Authority**

Section 10 of IRDA Act specifies that no act or proceeding of the Authority shall be invalid only by reason of any vacancy in, or any defect in the constitution of, the Authority; or any defect in the appointment of a person acting as a member of the Authority; or any irregularity in the procedure of the Authority not affecting the merits of the case.

**Officers and employees of Authority**

Section 12 of the IRDA Act says that the Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its function. The terms and other conditions of service of officers and other employees of the Authority appointed shall be governed by regulations made under this Act.
Transfer of assets, liabilities, etc., of Interim Insurance Regulatory Authority

According to section 13 of IRDA Act on the appointed day all the assets of Interim Insurance Regulatory Authority, (which includes all rights and powers, and all properties whether movable or immovable including in particular cash balances, deposits and all other interests and rights in, or arising out of such properties in the possession of Interim Insurance Regulatory Authority and all the books of accounts and other documents relating to the same) and liabilities of Interim Insurance Regulatory Authority (which includes all debts, liabilities and obligation of whatever kind) shall stand transferred to, and vested in, the Authority. All debts, obligation and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Interim Insurance Regulatory Authority immediately before that day, for or in connection with the purpose of the said Regulatory Authority, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority. All sums of money due to the Interim Insurance Regulatory Authority immediately before that day shall be deemed to be due to the Authority; and all suits and other legal proceedings instituted or which could have been instituted by or against the Interim Insurance Regulatory Authority immediately before that day may be continued or may be instituted by or against the Authority.

Duties, powers and functions of Authority

Section 14 of the IRDA Act explains that the Authority shall have the duty to regulate, promote and ensure orderly growth of the insurance business and reinsurance business. For this the Authority has the following powers and functions –

(a) issue to the applicant a certificate of registration, renew, modify, withdraw, suspend or cancel such registration;

(b) protection of the interests of the policy holders in matters concerning assigning of policy, nomination by policy holders, insurable interest, settlement of insurance claim, surrender value of policy and other terms and conditions of contracts of insurance;

(c) Specifying requisite qualifications, code of conduct and practical training for
intermediary or insurance intermediaries and agents;

(d) specifying the code of conduct for surveyors and loss assessors;

(e) promoting efficiency in the conduct of insurance business;

(f) promoting and regulating professional organizations connected with the insurance and re-insurance business;

(g) levying fees and other charges for carrying out the purposes of this Act:

(h) calling for information from, undertaking inspection of, conducting enquiries and investigations including audit of the insurers, intermediaries, insurance intermediaries and other organizations connected with the insurance business;

(i) control and regulation of the rates, advantages, terms and conditions that may be offered by insurers in respect of general insurance business not so controlled and regulated by the Tariff Advisory Committee under section 64U of the Insurance Act, 1938 (4 of 1938);

(j) specifying the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by insurers and other insurance intermediaries;

(k) regulating investment of funds by insurance companies;

(l) regulating maintenance of margin of solvency;

(m) adjudication of disputes between insurers and intermediaries or insurance intermediaries;

(n) supervising the functioning of the Tariff Advisory Committee;

(o) specifying the percentage of premium income of the insurer to finance schemes for promoting and regulating professional organizations referred to in clause (f);

(p) specifying the percentage of life insurance business and general insurance business to be undertaken by the insurer in the rural or social sector; and

(q) exercising such other powers as may be prescribed.


Grants by Central Government

According to section 15 of this Act the Central Government may, make to the Authority grants of such sums of money as the Government may think fit for being utilized for the purposes of this Act after due appropriation made by the Parliament by law in this behalf.

Constitution of funds

According to Section 16 of the Act a fund shall be constituted to be called the Insurance Regulatory and Development Authority Fund and shall be credited thereto all Government grants, fees and charges received by the Authority; all sums received by the Authority from such other source as may be decided upon by the Central Government; the percentage of prescribed premium income received from the insurer. Further the Fund shall be used for meeting out the salaries, allowances and other remuneration of the members, officers and other employees of the Authority; the other expenses of the Authority in connection with the discharge of its functions and for the purposes of this Act.

Accounts and audit

Section 17 of IRDA Act states that the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in form prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General. Further the Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books of account, connected vouchers and other documents and papers and to inspect any of the offices of the Authority. The accounts of the Authority as certified by the Comptroller and

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Auditor-General of India or any other person appointed by him in this behalf together with the audit-report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

**Power of Central Government to issue direction**

As per Section 18, without prejudice to the foregoing provision of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time. Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this section. Further the decision of the Central Government, whether a question is one of policy or not, shall be final.

**Power of Central Government to supersede Authority**

Section 19 of this Act says that if at any time the Central Government is of the opinion that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act, or the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered, or that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification and for reasons to be specified therein, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person to be the Controller of Insurance under section 2B of the Insurance Act, 1938 (4 of 1938), if not already done:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed suppression and shall consider the representations, if any, of the Authority. However upon the publication of a notification superseding the Authority,
(a) the Chairperson and other members shall, as from the date of suppression, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted be exercised and discharged by the Controller of Insurance; and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted vest in the Central Government.

On or before the expiration of the period of suppression specified in the notification, the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) shall not be deemed to be disqualified for reappointment.

The Central Government shall cause a copy of the notification issued and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

**Furnishing of returns to Central Government**

According to Section 20 of this Act the Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed, or as the Central Government may direct to furnish, such returns, statements and other particulars in regard to any proposed or existing programme for the promotion and development of the insurance industry as the Central Government may, from time to time, require.

Further the Authority shall, within nine months after the close of each financial year, submit to the Central Government a report giving a true and full account of its activities including the activities for promotion and development of the insurance business during the previous financial year. Copies of the reports received shall be laid, before each house of Parliament, as soon as may be after they are received.
Chairperson, members, officers and other employees of Authority to be public servants

As per the Section 21 of IRDA Act the Chairperson, members, officers and other employees of Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Protection of action taken in good faith

Section 22 of IRDA Act specifies that no suit, prosecution or other legal proceedings shall lie against the Central Government or any officer of the Central Government or any member, officer or other employee of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made there under:

Provided that nothing in this Act shall exempt any person from any suit or other proceedings, which might, apart from this Act, be brought against him.

Delegation of Powers

According to Section 23 of the Act the Authority may, by general or special order in writing, delegate to the Chairperson or any other member or officer of the Authority subject to such conditions, if any, as may be specified in the order such of its powers and functions under this Act as it may deem necessary. Further the Authority may, by a general or special order in writing, also form committees of the members and delegate to them the powers and functions of the Authority as may be specified by the regulations.

Power to make rules

Power to make rules have been specified in section 24 of the Act which says that the Central Government may, by notification, make rules for carrying out the provisions of this Act. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters, mentioned below:

(a) the salary and allowances payable to, and other terms and conditions of
service of, the members other than part-time members;

(b) the allowances to be paid to the part-time members;

(c) such other powers that may be exercised by the Authority;

(d) the form of annual statement of accounts to be maintained by the Authority;

(e) the form and the manner in which and the time within which returns and statements and particulars are to be furnished to the Central Government;

(f) the matters on which the Insurance Advisory Committee shall advise the Authority;

(g) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

Establishment of Insurance Advisory Committee

Section 25 of this Act says that the Authority may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the Insurance Advisory Committee, which shall consist of not more than twenty-five members excluding ex-officio members to represent the interest of commerce, industry, transport, agriculture, consumer, surveyors, agents, intermediaries, organizations engaged in safety and loss prevention, research bodies and employees’ association in the insurance sector. The Chairperson and the members of the Authority shall be the ex-officio Chairperson and ex-officio members of the Insurance Advisory Committee. The objective of the Insurance Advisory Committee shall be to advise the Authority on matters relating to the making of the regulations under section 26.

Power to make regulations

As per Section 26 the Authority may, in consultation with the Insurance Advisory Committee, by notification, make regulations consistent with this Act and the rules made there under to carry out the purposes of this Act. Such regulations may provide for all or any of the matters, such as the times and places of meetings of the Authority and the procedure to be followed at such meetings including the quorum necessary for the transaction of business, the transactions of business at its meetings,
the terms and other conditions of service of officers and other employees of the Authority, the powers and functions which may be delegated to Committees of the members and any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.

**Rules and regulations to be laid before Parliament**

Section 27 says that every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any, modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule or regulation.

**Application of other laws not barred**

According to Section 28, the provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

**Power to remove difficulties**

As per Section 29 of the Act any difficulty if arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty. Provided that no order shall be made under this section after the expiry of two years from the appointed day. Further every order made under this section shall be laid, before each House of Parliament, as soon as may be after it is made.

**Amendment of Act 4 of 1938**

According to Section 30 the Insurance Act, 1938 shall be amended in the manner specified in the First Schedule to this Act.
Amendment of Act 31 of 1956

Section 31 of this Act says that the Life Insurance Corporation Act, 1956 shall be amended in the manner specified in the Second schedule to this Act.

Amendment of Act 57 of 1972

According to Section 32 of this Act the General Insurance Business (Nationalization) Act, 1972 shall be amended in the manner specified in the Third Schedule to this Act.

Regulation of investments\(^\text{18}\)


(1) **Life business**- Every insurer carrying on the business of life-insurance shall invest and at all times keep invested his controlled fund (other than funds relating to pension and general annuity business and unit linked life insurance business) in the following manner: -

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Type of Investment</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td>Government securities</td>
<td>25%</td>
</tr>
<tr>
<td>(ii)</td>
<td>Government securities or other approved securities (including (i) above)</td>
<td>Not less than 50%</td>
</tr>
<tr>
<td>(iii)</td>
<td>Approved investments as specified in Schedule I</td>
<td></td>
</tr>
<tr>
<td>(a)</td>
<td>Infrastructure and Social Sector</td>
<td>Not less than 15%</td>
</tr>
<tr>
<td></td>
<td>Explanation- For the purpose of this requirement, Infrastructure and Social Sector shall have the meaning as given in regulation 2(b) of Insurance Regulatory and Development Authority (Registration of Indian Insurance Companies) Regulations, 2000 and as defined in the Insurance Regulatory and Development Authority (Obligations of Insurers to Rural and Social Sector) Regulations, 2000 respectively.</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>Others to be governed by Exposure norms as specified in regulation 5. Investment in “other than approved investments” can in no case exceed 15% of the fund.</td>
<td>Not exceeding 35%</td>
</tr>
</tbody>
</table>

(2) **Pension and general annuity business**- Every insurer shall invest and at all times keep invested funds belonging to his pension business, general annuity business in the following manner: -

\(^{18}\) Vide notification No. IRDA/Reg/18/2000, dated 14\textsuperscript{th} August, 2000.
### Various Acts of Insurance: IRDA Act, 1999

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Type of Investment</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td>Government securities, being not less than</td>
<td>20%</td>
</tr>
<tr>
<td>(ii)</td>
<td>Government securities or other approved securities (inclusive of (i) above, being not less than)</td>
<td>40%</td>
</tr>
<tr>
<td>(iii)</td>
<td>Balance to be invested in approved investments as specified in Schedule I and to be governed by Exposure/Prudential Norms specified in regulation 5</td>
<td>Not exceeding 60%</td>
</tr>
</tbody>
</table>

**Note**: For the purposes of this sub-regulation no unapproved investments shall be made.

### (3) Unit linked life insurance business

Every insurer shall invest and at all times keep invested his segregated fund of unit linked life insurance business as per pattern of investment offered to and approved by the policy-holders. Unit linked policies may only be offered where the units are linked to categories of assets which are both marketable and easily realizable. However, the total investment in other than approved category of investments shall at no time exceed 25% of the fund.

Every insurer shall limit his investments based on the following exposure norms:

<table>
<thead>
<tr>
<th>Type of Investment</th>
<th>Limit for investee company</th>
<th>Limit for the entire group to which the investee company belongs</th>
<th>Limit for the industry sector to which the investee company belongs</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) All investments in Equity/Preference Shares of the Company</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Debentures (Convertible/partly convertible/non-convertible)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Short/Medium Long term loans</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) Any other permitted investments as per the Act/Regulation</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

In the case of Indian Insurance Companies: Exposure at any point of time not to exceed 10% of the subscribed share capital, free reserves and debentures/bonds of the investee company or the 10% of Controlled funds in case of Life insurers, whichever is less. In the case of existing insurers: The limits mentioned above as applicable to the Indian Insurance Companies, shall stand modified as under: (a) exposure at any point of time not to exceed 20% of the subscribed share capital, debentures/bonds of the investee company or 5% of the controlled funds of the life insurer.

Exposure at any point of time not to exceed 10% of the aggregate subscribed share capital, free reserves and debentures of all the group companies in which investments including investments under consideration, have been or proposed to be made by the insurer or and 10% of the Controlled Funds in case of Life Insurers whichever is less. The percentage of 10% of the Controlled Fund in case of Life Insurers can be raised to 15% in each case subject to specific approval of IRDA.

Investment by the insurer in any industrial sector would not exceed 10% of its total investment exposure to the industrial sector as a whole. (Classification of Industrial sector to be done on the lines of classification in industries done by CMIE (Centre for Monitoring Indian Economy).

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19 Substituted by Notification No. IRDA/Reg/5/2001, dated 31st May, 2001, w.e.f. 31.5.2001

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[83]
Notes. –

1. Subject to exposure limits as per Insurance Act, 1938, investment in equity including preference shares, investment in equity convertible part of debentures should not exceed 50% of the above exposure norms as mentioned in the table. A similar 50% of exposure norms limit would also apply to investment in immovable property.

Subject to exposure limits mentioned in the Table above, an Insurer shall not have investments of more than 5% in aggregate of its Controlled funds in the case of a life insurer.

Returns to be submitted by an insurer

Every insurer shall submit to the Authority the following returns within such time, at such intervals and verified/certified in such manner as indicated there against.

<table>
<thead>
<tr>
<th>No.</th>
<th>Form No.</th>
<th>Description</th>
<th>Periodicity of returns</th>
<th>Time limit for submission</th>
<th>Verified/Certified by</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Form 1</td>
<td>Statement of Investments and Income on Investments</td>
<td>Yearly</td>
<td>Within 30 days from the date of Board's approval of audited accounts</td>
<td>Principal Officer/ Chief of (Investments)</td>
</tr>
<tr>
<td>2.</td>
<td>Form 2</td>
<td>Statement of Down Graded Investment</td>
<td>Quarterly</td>
<td>Within 21 days of the end of each quarter</td>
<td>Principal Officer/ Chief of (Investments)</td>
</tr>
<tr>
<td>3.</td>
<td>Form 3A</td>
<td>Statement of Investment of Total of Controlled Fund (Life)-Compliance Report</td>
<td>Quarterly</td>
<td>Within 21 days of the end of each quarter</td>
<td>Principal Officer/ Chief of (Investments)</td>
</tr>
<tr>
<td>4.</td>
<td>Form 3B</td>
<td>Statement of Investment of Total Assets (General)-Compliance Report</td>
<td>Quarterly</td>
<td>Within 21 days of the end of each quarter</td>
<td>Principal Officer/ Chief of (Investments)</td>
</tr>
<tr>
<td>5.</td>
<td>Form 3C</td>
<td>Exception Report on instruments not complying with ‘AA’ or ‘AAA’ grade-Compliance Report</td>
<td>Quarterly</td>
<td>Within 21 days of the end of each quarter</td>
<td>Principal Officer/ Chief of (Investments)</td>
</tr>
<tr>
<td>6.</td>
<td>Form 4</td>
<td>Exposure/Prudential Investment Norms-Compliance Certificate</td>
<td>Yearly</td>
<td>Within 30 days from the date of Board's approval of audited accounts</td>
<td>Principal Officer/ Chief of (Investments)</td>
</tr>
<tr>
<td>7.</td>
<td>Form 4A</td>
<td>Statement of Investment Subject to Exposure Norms</td>
<td>Yearly</td>
<td>Within 30 days from the date of Board's approval of audited accounts</td>
<td>Principal Officer/ Chief of (Investments)</td>
</tr>
<tr>
<td>8.</td>
<td>Form 5</td>
<td>Statement of Investment Reconciliation</td>
<td>Quarterly</td>
<td>Within 21 days of the end of each quarter</td>
<td>Principal Officer/ Chief of (Investments)</td>
</tr>
<tr>
<td>9.</td>
<td>Form 5A</td>
<td>Statement of Mutual Fund Investments</td>
<td>Quarterly</td>
<td>Within 21 days of the end of each quarter</td>
<td>Principal Officer/ Chief of (Investments)</td>
</tr>
<tr>
<td>10.</td>
<td>Form 6</td>
<td>Certificate under section 28(2A), 28(2B) and 28B(3) of the Insurance Act, 1938</td>
<td>Quarterly</td>
<td>Within 21 days of the end of each quarter</td>
<td>Principal Officer/ Chief of (Investments)</td>
</tr>
<tr>
<td>11.</td>
<td>Form 7</td>
<td>Confirmation of Investment Portfolio Details</td>
<td>Quarterly</td>
<td>Within 21 days of the end of each quarter</td>
<td>Principal Officer/ Chief of (Investments)</td>
</tr>
</tbody>
</table>

Power to call for additional information

The Authority may, by general or special order, require from the insurers such other information in such manner, intervals and time limit as may be specified therein.

Duty to report extraordinary events affecting the investment portfolio

Every insurer shall report to the Authority forthwith, the effect or the probable effect of any event coming to his knowledge, which could have material adverse impact on the investment portfolio and consequently on the security of policyholder benefits or expectations.

Constitution of Investment Committee

(1) Every insurer shall constitute an Investment Committee which shall consist of a minimum of two non-executive directors of the Insurer, the Principal Officer, Chiefs of Finance and Investment divisions, and wherever appointed actuary is employed, the Appointed Actuary. The decisions taken by the Investment Committee shall be properly recorded and be open to inspection by the officers of the Authority.

(2) Every insurer shall draw up annually an Investment Policy and place the same before its Board of Directors for its approval. In framing such a policy, the Board will be guided by issues relating to liquidity, prudential norms, exposure limits, stop loss limits in securities trading, management of all investment and market risks, management of assets liabilities mismatch, investment audits and investment statistics, etc. and the provisions of the Insurance Act, 1938 and Insurance Regulatory and Development Authority (Investment) Regulations, 2000; ensuring an adequate return on Policyholders and Shareholders funds consistent with the protection, safety and liquidity of such funds; the funds of the insurer shall be invested and continued to be invested in equity shares, preference shares and instruments which enjoy a rating referred to in note below regulation 3 and made by a national/international agency; in the absence of a rating for an asset, the Board

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shall lay down clearly the norms that will be followed by the investment committee which will ensure that the safety and liquidity of the policyholders funds are assured.

(3) The investment policy as approved by the Board will be implemented by the investment committee, and shall keep the Board informed periodically about its activities.

(4) The Board shall review its investment policy and its implementation on an half-yearly basis or at such short intervals as it may decide and make such modifications in its existing investment policy as are necessary to bring them in tune with the requirements of law and regulations – in regard to protection of policyholders interest and pattern of investment laid down.

(5) The details of the Investment Policy or its review as periodically decided by the Board shall be submitted to the Authority within 30 days of its decision thereto. The Authority may call for further information from time to time from the insurer as it deems necessary and in the interest of policyholders issue such directions to the insurers as it thinks fit.

**Dealing in financial derivatives**

Every Insurer carrying on the business of life insurance or general insurance may deal in financial derivatives only to the extent permitted and in accordance with the guidelines issued by the Authority in this regard from time to time.

Any margin or unamortized premium paid by any insurer in connection with the financial derivatives to the extent they are reflected as asset position in the Balance Sheet of the Insurer in accordance with the guidelines issued by the Authority, shall be treated as "Approved Investment" under Schedule I and Schedule II to these Regulations, only to the extent the derivatives position constitutes a hedge for the underlying investment or portfolio which itself is treated as an approved investment under these Regulations. All other margin or unamortized premium paid, to the extent reflected in the Balance Sheet of the Insurer in accordance with the guidelines issued by the Authority in this regard from time to time, shall be treated as "Other than Approved Investments".

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22 Added by Notification No. IRDA/Reg./1/2004, dated 1st January 2004 (w.e.f. 5-1-2004)
Procedure to be followed for reinsurance arrangements\textsuperscript{23}

Every life insurer shall have to draw up a programme of reinsurance in respect of lives covered by him. The profile of such a programme, shall include the name(s) of the reinsurer(s) with whom the insurer proposes to place business, shall be filed with the Authority, at least forty-five days before the commencement of each financial year, by the insurer. The Authority shall scrutinize such a programme of reinsurance and may suggest changes, if it considers necessary, and the insurer shall incorporate such changes forthwith in his programme.

Every insurer shall retain the maximum premium earned in India commensurate with his financial strength and volume of business. The reinsurers, chosen by the insurer, shall enjoy a credit rating of a minimum of BBB of Standard and Poor or equivalent rating of any international rating agency. Further the placement of business by the insurer with any other reinsurers shall be with the prior approval of the Authority. 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.

Every insurer shall submit to the Authority statistics relating to its reinsurance transactions in such forms as it may specify, together with its annual accounts.

Procedure for registration of Indian insurance companies\textsuperscript{24}

According to new rules regarding registration of Indian Insurance Companies, an applicant deserving to carry on insurance business in India shall make a requisition for registration application in the prescribed Form IRDA/R1. An applicant whose requisition for registration application has been accepted by the Authority, shall make an application in Form IRDA/R2 for grant of certificate of registration.


\textsuperscript{24} Inserted through the Insurance Regulatory and Development Authority (Registration of Indian Insurance Companies) Regulation, 2000 vide Notification No. IRDA/Reg/7/2000 dated 14\textsuperscript{th} July, 2000.
Classes of insurance business for which requisition for registration application may be made. –

An applicant shall make a separate requisition for registration application under regulation 3 for each class of business of insurance. The classes of business of insurance for which requisition for registration application may be made are-

- life insurance business consisting of linked business, non-linked business or both;
- or
- general insurance business including health insurance business (or health cover).

Requisition for registration application. –

An applicant shall be eligible to apply for requisition if such applicant upon registration will be an Indian insurance company as defined in section 2(7A) of the Insurance Act. However applicant whose requisition for registration has been rejected by the Authority at any time during the preceding five financial years on the date of requisition for registration application; or application for registration has been rejected by the Authority at any time during the preceding five financial years on the date of requisition for registration application; or certificate of registration has been cancelled or withdrawn by the Authority; or name does not contain the words 'insurance company' or 'assurance company' shall not be eligible to make a requisition for registration application under this regulation.

Every requisition for registration application needs to be accompanied by a certified copy of the memorandum of association and articles of association, where the applicant is a company and incorporated under Companies Act, 1956 (1 of 1956); the name, address and the occupation of the directors and principal officer; a statement of the class of insurance business proposed to be carried on; and a statement indicating the sources that will contribute the share capital required under section 6 of the Insurance Act.

Furnishing of further information and clarification

The Authority may require the applicant, to furnish further information or clarification regarding the matters relevant to consider the requisition for registration application.
Consideration of requisition for registration application. –

The Authority after being satisfied that the requisition in Form IRDA/R1 is complete in all respects and is accompanied by all documents required therein; all information given in the Form IRDA/R1 is correct; the application will carry on all functions in respect of the insurance business including management of investments within its own organization; and the applicant submitting requisition for registration application is a bona fide applicant for registration and will be in a position to comply with all the requirements for grant of certificate, may accept the requisition and direct supply of the application for registration to the applicant.

Rejection of requisition for registration application

Where all the necessary requirements are not complied with, the Authority may, after giving the applicant a reasonable opportunity of being heard, reject the application. The order rejecting the application shall be communicated by the Authority within thirty days of such rejection to the applicant in writing stating therein the ground on which the application has been rejected. An applicant aggrieved by the decision of the Authority may, within a period of thirty days from the date of such communication, apply to the Authority for reconsideration of its decision.

The Authority shall reconsider the application and communicate its decision, as soon as possible, in writing to the applicant.

Action upon rejection of application for requisition

An applicant, whose requisition for registration application has been rejected, may approach the Authority with a fresh request for registration application after a period of two years from the date of rejection, with a new set of promoters and or for a class of insurance business other than the originally proposed one.

Application for registration

An applicant, whose requisition has been accepted, may make an application in Form IRDA/R2 for grant of certificate of registration with following documents

- documentary proof evidencing the making of deposit required under section 7 of the Insurance Act.
• evidence of having rupees one hundred crore or more paid up equity share capital, in case the application for grant of certificate is for life insurance business or general insurance business;

• evidence of having rupees two hundred crore or more paid up equity share capital, in case the application for grant of certificate is for reinsurance business;

• an affidavit by the principal officer and the promoters of the applicant certifying that the requirements of the first proviso to section 6 of the Insurance Act to the effect that paid up share capital is adequate after excluding any preliminary expenses incurred in the formation and registration of the company and the deposit required to be made under section 7 of the Insurance Act have been satisfied;

• a statement indicating the distinctive numbers of shares issued to each promoter and shareholder in respect of share capital of the applicant;

• an affidavit by the principal officer and the promoters of the applicant certifying that the paid up equity capital referred to in sub-clause (b) of clause (7A) of section 2 of the Insurance Act, calculated is in accordance with regulation and does not exceed twenty six percent.;

• a certified copy of the published prospectus, if any;

• a certified copy of the standard norms of the insurer and statements of the assured rates, advantages, terms and conditions to be offered in connection with insurance policies together with a certificate by an actuary in case of life insurance business that such rates, advantages, terms and conditions are workable and sound;

• a certified copy of the memorandum of understanding entered into between the Indian promoter and the foreign promoter, if any, or amongst the promoters as a whole including details of the support comfort letters exchanged between the parties;

• the original receipt showing payment of the fee of rupees fifty thousand for a class of business;

• a certificate from a practicing chartered accountant or a practicing company
secretary certifying that all the requirements relating to registration fees, share capital, deposits, and other requirements of the Act have been complied with by the applicant;

- any other information required by the Authority during the processing of the application for registration.

**Manner of calculation of twenty six percent equity capital held by a foreign company**

For the purposes of the Act and these Regulations, the calculation of the holding of equity shares by a foreign company either by itself or through its subsidiary companies or its nominees (hereafter referred to as foreign investor) in the applicant company, shall be made as under and shall be aggregate of:

- the quantum of paid up equity share capital held by the foreign company either by itself or through its subsidiary companies or nominees in the applicant company;

- the quantum of paid up equity share capital held by other foreign investors, non-resident Indians, overseas corporate bodies and multinational agencies in the applicant company; and

- the quantum represented by that proportion of the paid up equity share capital to the total issued equity capital of an Indian promoter company mentioned in sub-clause (i) of clause (g) of regulation 2 held or controlled by the category of persons mentioned in sub-clauses (i) and (ii) of this sub-regulation.

**Explanation**

For purposes of calculation referred to above, account need not be taken of the holdings of equity in an Indian promoter company held by foreign institutional investors, other than the foreign promoters of the applicant and their subsidiaries and nominees, and Indian mutual funds to the extent the investment of foreign institutional investors and Indian mutual funds are within the approved limits laid down by SEBI under its rules, regulations or guidelines issued from time to time.

Every insurer who has been granted registration under the Act shall, within 15 days of the end of every quarter, furnish to the Authority a statement indicating
changes exceeding 1% of the issued capital in the holding of the shares in his company and those of the promoter. The interpretation of this regulation will be that of the Authority, whose decision on all issues will be binding on all applicant/insurers and will be final.

**Consideration of application**

The Authority shall take into account for considering the grant of certificate, all matters relating to carrying on the business of insurance by the applicant. The Authority shall consider the following matters for grant of certificate to the applicant, namely: -

- the record of performance of each of the promoters in the fields of business/profession they are engaged in;
- the record of performance of the directors and persons in management of the promoters and the applicant;
- the capital structure of the applicant company;
- the extent of obligation to provide life insurance or general insurance policies to the persons residing in the rural sector, workers in the unorganized sector or informal sector or for economically vulnerable or backward classes of the society and other categories of persons specified by the Authority;
- the nature of insurance products;
- the planned infrastructure of the applicant company, including branches in rural areas, to effectively carry out the insurance business;
- the level of actuarial and other professional expertise within management of the applicant company;
- other relevant matters for carrying out the provisions of the Insurance Act.

The Authority give preference in grant of certificate of registration to those applicants who propose to carry on the business of providing health covers to individuals or groups of individuals.
Rejection of application for registration

Where an application for registration is not complete in all respects and does not conform to the regulations or instructions specified in Form IRDA/R2, and on being satisfied that it is not desirable to grant a certificate the Authority by an order may reject the application. The order rejecting the application shall be communicated by the Authority within thirty days of such rejection to the applicant in writing stating therein the ground on which the application has been rejected. An applicant aggrieved by the decision of the Authority may within a period of thirty days from the date of such communication, appeal to the Central Government in accordance with sub-section (2C) of section 3 of the Insurance Act, for reconsideration of such decision. The decision of the Central Government on such appeal shall be final and shall not be questioned before any court.

Effect of rejection of application for registration

An applicant, whose application for registration has been rejected, shall not be entitled to a certificate. However an applicant may approach the Authority with a fresh request for registration after a period of two year from the date of rejection, with a new set of promoters and or for a class of insurance business other than the originally proposed one.

Manner of payment of fee for registration

The fee of rupees fifty thousand for each class of business for registration shall be remitted by a bank draft issued by any scheduled bank in favor of the Insurance Regulatory and Development Authority payable at New Delhi.

Grant of certificate of registration

The Authority, after making such inquiry as it deems fit and on being satisfied that the applicant is eligible, and in its opinion, is likely to meet effectively its obligations imposed under the Act; the financial condition and the general character of management of the applicant are sound; the volume of business likely to be available to, and the capital structure and earning prospects of the applicant will be adequate, the interests of the general public will be served if the certificate is granted to the applicant in respect of the class of insurance business specified in the
application; and the applicant has complied with the provisions of sections 2C, 5, 31A, 32 and 32A and has fulfilled all the requirements of these sections applicable to him, may register the applicant as an insurer for the class of business for which the applicant is found suitable and grant him a certificate in Form IRDA/R3. An applicant granted a certificate of registration under the Regulations shall commence insurance business for which he had been authorized within 12 months of the date of registration; However, that if the company feels that it will not be able to commence the insurance business within the specified period of 12 months, it can before the time limit expires, seek an extension, by a proper written application, to the Authority. The Authority on receipt of such request will examine it and communicate its decision in writing either rejecting the request or granting it. But no extension of time shall be granted by the Authority beyond 24 months from the date of grant of registration under regulation 16(C).

Manner of renewal of certificate

An insurer, who has been granted a certificate under section 3 of the Insurance Act, shall make an application in Form IRDA/R5 for the renewal of the certificate in Form IRDA/R6 to the Authority before the 31st day of December each year, and such application shall be accompanied by evidence of the payment of the fee which shall be higher of, fifty thousand rupees for each class of insurance business, and one-tenth 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 five crore, whichever is less; (and in the case of an insurer carrying on solely reinsurance business, instead of the total gross premium written direct in India, the total premium in respect of facultative reinsurance accepted by him in India shall be taken into account).

(2) If the insurer fails to apply for the renewal of registration before the date specified the Authority may accept an application for renewal of registration on receipt of the fee payable with the application along with an additional fee by way of penalty of ten percent. of the fee payable with the application.
Manner of payment of fee for renewal of certificate

The fee for renewal of certificate shall be paid to the account of Insurance Regulatory and Development Authority with the Reserve Bank of India.

Issue of duplicate certificate

The Authority on receipt of the fee of rupees five thousand, issue a duplicate certificate to an insurer, if the insurer makes an application to the Authority in Form IRDA/R4.

Procedure for action in case of default

Suspension of certificate

Without prejudice to any penalty which may be imposed or any action taken under the provisions of the Insurance Act, the registration of an Indian insurance company or insurer who conducts its business in a manner prejudicial to the interests of the policy-holders; fails to furnish any information as required by the Authority relating to its insurance business; does not submit periodical returns as required under the Act or by the Authority; does not cooperate in any inquiry conducted by the Authority; indulges in manipulating the insurance business; indulges in unfair trade practices; fails to make investment in the infrastructure or social sector specified under sub-section (1A) of section 27D of the Insurance Act, may be suspended for a class or classes of insurance business for such period as may be specified by the Authority by an order; further provided that the Authority for reasons to be recorded in writing may, in case of repeated defaults of the type mentioned above, impose a penalty of cancellation of certificate.

Manner of making order of suspension or cancellation of certificate

No order of suspension or cancellation shall be imposed except after holding an enquiry in accordance with the procedure specified in these regulations.

Manner of holding enquiry before suspension or cancellation

For the purpose of holding an enquiry, the Authority may appoint an enquiry officer who shall issue to the insurer a notice at the registered office or the principal place of business of the insurer. The insurer may, from the date of receipt of such
notice within thirty days furnish to the enquiry officer a reply, together with copies of
documentary or other evidence relied on by it or sought by the Authority from the
insurer. The enquiry officer shall give a reasonable opportunity of hearing to the
insurer to enable it to make submissions in support of its reply. Before the enquiry
officer, the insurer may either appear in person or through any person duly authorized
by the insurer. Provided that no advocate shall be permitted to represent the insurer at
the enquiry; but, where an advocate has been appointed by the Authority as the
presenting officer it shall be lawful for the insurer to present its case through an
advocate.

The enquiry officer shall, after taking into account all relevant facts and
submissions made by the insurer, submit a report to the Authority and recommend the
penalty to be awarded as also the justification of the penalty proposed.

**Show-cause notice and order**

On receipt of the report from the enquiry officer, the Authority shall consider
the same and if considered necessary by it, issue a show-cause notice as to why a
penalty as it considers appropriate should not be imposed. The insurer shall, within
twenty-one days of the date of receipt of the show-cause notice, send a reply to the
Authority. The Authority after considering the reply to the show-cause notice, if
received, shall as soon as possible but not later than thirty days from the receipt of the
reply, if any, pass such orders as it deems fit. If no reply is furnished to the Authority
by the insurer within 90 days of the service of the notice, the Authority can proceed to
decide the issue ex-parte. An order so passed shall give reasons therefore including
justification of the penalty imposed by that order.

The Authority shall send a copy of the order to the insurer as well.

**Effect of suspension or cancellation of certificate**

On and from the date of suspension or cancellation of the certificate, the
insurer shall cease to transact new insurance business.

**Publication of order**

The order of the Authority shall be published in at least two daily newspapers
in the area where the insurer has his principal place of business.

**Provisions applicable to existing insurers**

**Registration of existing insurers**

Every insurer carrying on insurance business in India before the commencement of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) and requiring registration under the Act, shall make an application, in Form IRDA/R2 for grant of certificate of registration, within three months from the commencement of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999). Every application shall be accompanied by original certificate of registration; a confirmation that the requirements of section 7 of the Insurance Act have been met; evidence of having rupees two hundred crore or more paid-up share capital, in case of an application for grant of certificate of registration for reinsurance business; an affidavit by the principal officer of the applicant certifying that the requirements of section 6 of the Insurance Act have been complied with a certified copy of the standard forms of the insurer and statements of the assured rates, advantages, terms and conditions to be offered in connection with insurance policies together with a certificate in case of life insurance business by an actuary that such rates, advantages, terms and conditions are workable and sound; the original receipt showing payment of fee of rupees fifty thousand for each class of business; any other information required by the Authority during the processing of the application for registration.

The Authority shall register every applicant, who submits an application in accordance and grant a certificate in Form IRDA/R3.

**Transitory Provisions**

Every existing insurer shall be required to comply with all the Regulations made by the Authority from the date of their notification. Provided that the Regulations made by the Authority on the following subject viz: -

1. Accounts;
2. Assets, liabilities and solvency margin;
3. Reinsurance,
This may be at the choice of an existing insurer, be complied with within a period of twelve months from the commencement of those regulations. However, the Authority may, on an application made to it by an existing insurer, for valid reasons, grant a further period of time to comply with the above regulations but the total time taken by an existing insurer to comply with regulations in the areas mentioned above does not extend beyond twenty-four months from the date(s) of commencement of those regulations. In case an existing insurer does not conform to the regulations in the areas mentioned above within the time allowed to him under this regulation, the Authority shall proceed against him for failure to comply with its directions.

Notwithstanding, anything prevents the Authority from seeking information from an existing insurer on the subjects mentioned in the first proviso to this regulation and issue directions to an insurer, wherever necessary.

**Form IRDA/R1**

**Requisition for registration application**

[Please see regulation 5 of Insurance Regulatory and Development Authority (Registration of Indian Insurance Companies) Regulations, 2000.]

(This form is supplied free of cost to the applicants by the Insurance Regulatory and Development Authority. Please fill in the application carefully. Should you require any clarifications, please write to the Authority specifically mentioning your query or call on us personally subject to prior appointment.)

1. Name of the applicant
2. Address
3. Date of incorporation as a Company [DD/MM/YYYY]
4. Registration No. (issued by the Registrar of the Companies)
5. State the classes of insurance business for which registration is sought
6. Amount of Authorized capital and Face value of shares and their numbers.
7. Amount of Paid up Capital and Number of equity shares.
8. Classification of shares
9. Voting Rights of each class of shareholders.

10. Details of shareholders (Please give full name, address, percentage of holding in the paid up capital of the insurer, Occupation, Qualifications and Experience, Number of shares held and percentage of share capital in the company). Please attach separate sheets if necessary. Details of persons holding more than 1% of the issued capital of the applicant and promoters are to be given in separate statements.

<table>
<thead>
<tr>
<th>Full Name [first, middle, surname]</th>
<th>Date of Birth</th>
<th>Address with Telephone Nos., Fax Nos., E-mail</th>
<th>Qualifications</th>
<th>Experience</th>
<th>Present Occupation</th>
<th>No. of equity (voting rights) shares and percentage of total holding</th>
<th>Remarks</th>
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Note. –If the promoter is a company or a body corporate registered in India or in a foreign country, give the name of the company or body corporate in column (1), the country of incorporation and the date of registration in column (2), mention the areas of operation of the company in column (5), leaving the columns 4 and 6 blank; particulars indicating the countries of operation, nature of business enclosing statements of accounts of the company or body corporate for the last 5 years are to be given. If there is more than one promoter, the information may kindly be furnished in such a manner as to indicate clearly the inter-relationship, if any, of parties. If a promoter is a nominee of another, details of the principal in the above areas are to be given. Adequate care may be taken to furnish full and complete information truthfully. Any misrepresentation found later will lead to disqualification of the applicant, its promoters and others connected thereto.

If the total required capital has not yet been issued, please provide information on the expected subscriptions to shares and whether the potential shareholder has given any commitment or assurance to subscribe to the capital.

11. Applicant

This section should set out the background information. Following information should be included: -

- Particulars of the partners in the joint venture (e.g. company name, address, names of directors, etc.)

- Constitution of the promoter companies-details of shareholders holding in excess of 1% of the paid up capital.

- Nature of business, years in business of promoter companies.
• Past record of regulatory interventions/restrictive directions in respect of promoter companies.

• The applicant's reasons for entering the insurance market.

• Financial statements for the last five years. Strengths of the partners.

• Indication of the degree of commitment to the Indian market place displayed by the applicant.

• The Agreement among the shareholders promoting the company.

• The obligations undertaken by the foreign promoters.

• The obligations of the applicant company to the foreign promoters.

• Sources for meeting the initial and future capital needs.

• In cases of non-corporate promoters, information on the above lines, suitably modified, may be given.

Promoters (Separate statements for Indian promoters and foreign promoters, if any, are to be given).

Details of promoters: (Please give full name, address and percentage of holding in the paid up capital, Occupation, Qualifications and Experience, Number and Percentage of share capital in the company).

<table>
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<tr>
<th>Full Name [first, middle, surname]</th>
<th>Date of Birth</th>
<th>Address with Telephone Nos., Fax Nos., E-mail</th>
<th>Qualifications</th>
<th>Experience</th>
<th>Present Occupation</th>
<th>No. of equity (voting rights) shares and percentage of total holding</th>
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If the promoter is a company or a body corporate registered in India or in a foreign country, give the name of the company or body corporate in column (1), furnish the date of registration in column (2), and mention the areas of operation of the company in column (5), leaving the columns 4 and 6 blank. The particulars of
persons nominated by such promoter in the above *pro forma*; and particulars indicating the countries of operation, nature of business enclosing statements of accounts of the company or body corporate for the last 5 years should also be provided.

**12. Applicant company**

This section should provide the key aspects of the Company. This will cover the following:

- Name of the applicant Company
- Date of Registration [DD/MM/YYYY] (as per Companies Act, 1956)
- Registration Number
- Registered Office Address
- Head Office Address
- Address for Communications (state the name of the Company Secretary, telephone numbers, fax numbers, mobile number, e-mail address and such other details.
- Key aspects of the promoters (e.g. respective shareholdings, roles and responsibilities, directorships, inter-relationships, etc.)
- Particulars of the Board of Directors
- States of operation. Branch locations (Proposed)
- Company's Mission Statement
- Senior management (key person) and allocation of responsibilities (Proposed)
- Organizational structure. Reporting relationships
- Allocation of responsibilities between the head office and the operational units.

Enclose four certified copies of Memorandum and Articles of Association of the registered company.
13. **Capital structure**

   Amount of authorized capital and No. of Shares

   Classification of Shares

   Amount of Issued Capital and No. of Shares

   Amount of Paid up Capital and No. of Shares

   Voting Rights attached to each class of Shares

   Nominal/Face value of Each Equity Share/other Share

14. **Directors and key persons**

   For each director and key directors and key persons, furnish the particulars in the proforma given below:

   Name (and any previous names)

   Private and Business Address

   (including any other private addressees within the last 15 years)

   Date and Place of Birth

   Nationality (and any previous Nationality)

   Passport/Identity Card:

   - Number

   - Date and Place of Issue

   - Date of expiry

   - Issuing Authority

   Name and Address of Bank:

   - Account Numbers and Type of Account

   - Details of any loans or guarantees issued to or on behalf of the company in which the Directors and key persons have a management
or shareholding interest

Family status

Details and Dates of Professional Qualification

Description of the prospective position (including responsibilities) and proposed date of commencement

Working Experience:

- Existing and Previous Employers (covering last 15 years)

- Details of whether the Directors and key persons and/or their Employers have been formally supervised or regulated

- Nature of Employer's business

- Designation: (including duties and responsibilities)

- Date of Appointment

- Date of Resignation/Departure

- Details of Other Business interests in the last 15 years where the Directors and key persons have been a working shareholder, director or controller.

Relationship with the Company or related Companies or other third parties

- Details of shareholdings or voting powers in the company, or related Companies or third parties

- Details of any Business relationships with the company or related Companies or third parties.

- Details of any Business relationships between the Directors' and key persons' former employers and the company or related Companies or third parties.

Full details on the Directors and key persons' reputation and character:

- whether the applicant has ever been declared bankrupt

- any convictions of any offence involving fraud or other dishonesty

- any disqualification of the Directors and key persons from acting as a director
or in the management of any company or organization

-whether the Directors and key person have ever been refused (or had revoked) a license or authorization to carry on any regulated financial business.

-Any censure or disciplinary action initiated by any government, regulatory or professional body

-Any dismissals from office or employment, subject to disciplinary proceedings by the Directors' and key persons' employer or been refused entry to any profession or occupation.

-Any litigation with which the Directors and key persons have been involved over the last 5 years

-Whether any governmental, regulatory or professional body has ever investigated any employer, company or organization with which the Directors and key persons have been associated as a director, officer, manager or shareholder

-Whether any company or organization with which the Directors and key persons were associated as a director, officer, manager, shareholder or controller has ever been wound up, gone into receivership or ceased trading either whilst the Directors and key persons was associated with it or within one year after the Directors and key persons so ceased to be associated.

In the Remarks column, please mention whether any director is an agent, broker, intermediary, director or employee of any other insurance company in India or in any foreign country.

For these purposes, "Key persons" will include the Chief Executive, Chief Marketing Officer, Appointed Actuary, Chief Investment Officer, Chief of Internal Audit and Chief Finance Officer.
15. **External Auditors: (Proposed)**

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<tr>
<th>Full Name [first, middle, surname]</th>
<th>Date of Birth</th>
<th>Address with Telephone Nos., Fax Nos., E-mail</th>
<th>Qualifications</th>
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If auditors are a firm, state the name of the firm in Column (1), its date of registration in Column (2).

**Note:** In choosing external statutory auditors, the applicant may be guided by the Regulations for preparation of Financial Statements and Auditors Report of insurance Companies, more particularly those dealing with appointment of auditors.

16. **Business to be transacted**

Describe the insurance business to be transacted.

17. **Where in the country do you wish to carry on insurance business? (tick the boxes)**

   (a) Regions:  ☐ North    ☐ South East    ☐ West Central
   
   (b) Metropolitan cities  ☐ Mumbai    ☐ Chennai    ☐ Delhi    ☐ Calcutta
   
   (c) Concentration:  ☐ Rural    ☐ Urban ☐ Both Rural & Urban

18. **Distribution Channels:**  ☐ Direct    ☐ Tied Agents

    ☐ Broker/Intermediaries    ☐ Others

19. **Financial Projections (both for life and general insurance-depending on the class applied for registration)**

   A description of the model used for financial projections should be provided, based on assumptions, for a period of 5 years, for each year from the start. These should set out the following: -

   - Size of sales force
   - Amount of sales

- Size of sales support and administrative staff
- Premium income
- Investment income
- Commissions and other sales related expenses
- Expenses of administration
- Income tax and other taxes
- Statutory reserves
- Required solvency margins
- Profit and loss accounts and balance sheets
- First year and renewal expense rations
- Capital needs-Indian and Foreign
- Break-even periods and the Return on Capital
- Shareholder dividends: Indian and Foreign
- Policyholder surpluses and bonus declarations.

This section should also discuss the manner in which the future capital needs will be met.

20. Sensitivity analysis (life)

The analysis set out in para 19 above will be based on a base scenario and a few alternate scenarios. Sensitivity analysis based on "Optimistic" and "Pessimistic" assumptions should also be included. These will relate to assumptions such as:

- Size of sales force
- Volume of sales
- Average size of sale
- Levels of mortality/morbidity, policy terminations
- Administrative expenses (including inflation)
- Future investment conditions

A discussion on the manner in which the outcome of the pessimistic scenarios will be handled should be included.

21. Rural business

Legislation requires that a specified percentage of the new business should be undertaken in the rural or social sector. The manner in which this requirement will be fulfilled should be described. For the purpose of this section, please see the relevant regulations covering this area.

22. Obligations in unorganized sector and backward classes

In addition, insurers shall discharge obligations in respect of unorganized sector to cover risks of economically vulnerable sections of the society and backward classes. For the purpose of this section, please see the relevant regulations covering this area.

The manner in which these requirements are proposed to be met should be described in detail.

23. Particulars of previous application

Has the applicant ever applied for license in India or outside India? If so, give particulars.

24. Conclusion:

In conclusion, the report should discuss the viability of the operations. Any special issues or concerns should also be indicated.

Certification

I, the undersigned, solemnly declare that the facts given in this application form on behalf of the Applicant Company are true and that the projections and estimations are based on reasonable assumptions.

Place ..........

Date .......... Signature of the Authorized person (with seal).
FORM IRDA/R2

APPLICATION FOR REGISTRATION

[Please see regulation 10 of the Insurance Regulatory and Development Authority
(Registration of Indian Insurance Companies) Regulations, 2000]

(This form is supplied free of cost to the applicants by the Insurance
Regulatory and Development Authority. Please fill in the application carefully.
Should you require any clarifications, please write to the Authority specifically
mentioning your query or call on us personally subject to prior appointment.)

1. Geographic spread

Give the address of the administrative officers in each State and Union
Territory in India, overseas, and also in Rural Areas with the name of person in
charge of the office. (If the applicant has not decided, he might give the proposed
number and locations of administrative offices in each State and Union Territory in
India, overseas, and also in rural areas.)

2. Market research and analysis

The company may have undertaken some form of market analysis to ascertain the
market potential, consumer needs, target market, product potential, etc. (in particular
health insurance segment). Full description of the research, along with the conclusions
reached.

3. Products to be sold

Based on the market research and analyses undertaken, the partners would have
decided upon the products to be marketed-individual or group insurance. The
description should include the following: -

- Description of the product features
- The target markets where the products will be sold
- Specification of the names of the products in life/general insurance,
  linked/non-linked, health insurance
4. **Distribution**

This section should describe how the products will be or are proposed to be distributed. This should cover the following:

- The channels of distribution to be used, with an indication on the relative degrees of importance placed on each of the channels.
- The distribution network that will be set up in the market place.
- Any limitations on the products to be sold by any of the channels.
- Remuneration to be paid to each channel of distribution.

5. **Sales promotion**

The approach to be used for advertisement and sales promotion, e.g., the media to be used, frequency, etc. Copies of sales material, literature advertising the product if any, should be provided.

6. **Underwriting**

This section should describe the approach used for underwriting of proposals; the arrangements made for medical and other reports, etc.

Please also state the nature of support to be provided in underwriting and in training of underwriters by the foreign promoters.

7. **Investments**

Each company will have established its investment philosophy that will be appropriate for the products it intends to market. This should be described. Other information should include the investment personnel, investment adviser (if outsourced), location of the investment operations, investment brokers to be used, etc. Regulations regarding Investment, Valuation, Exposure – Prudential – Provisioning Norms – Life and Non Life issued by the Authority may be taken into account.

8. **Information technology**

Insurance industry is very much dependent on computer technology. Full description should be provided for the following: -

- The different areas where computer systems will be employed
• Whether the systems will be bought off the shelf (with some customization), developed locally or imported into India by the foreign promoter (with some customization)

• The degree to which the systems will be used for policy-holder servicing

• The degree of interconnectivity of the systems

• A description of how to I/T systems will be used to develop the required Management Information Systems

• Extent of procedures and operations which will remain manual

9. Customer service

Customer service could be provided either centrally through the head office or decentralized to the branch offices/operational units. The degree to which customer service is planned to be decentralized to the branch offices should be described. The service standards planned to be introduced for the various aspects of customer service should be described. Any plan to introduce "call-centers" or customized grievance settlement machinery may be indicated.

Mention the time schedule for various types of service offered by the Company.

10. Retention limits and reinsurance

The nature of reinsurance arrangements should be described fully, giving the following details: -

• The name(s) of reinsurer(s)

• The basis of reinsurance

• Terms of reinsurance

The manner in which the retention limit(s) have been established should be discussed.

11. Recruitment and training

Different areas of the company require personnel with different skill sets. These personnel will include agents, sales supervisor, branch managers, administrative staff for various departments, etc. Some of the departments will require special technical
skills (e.g. underwriting, actuarial, accounting, sales, information technology, etc.). This section should set out the following information for each of the categories:

- Desirable skill sets
- Sources for recruitment
- Approach to be used for training-in house/out source

12. **Internal controls**

The company will need to establish a set of procedures and norms for various activities. The manner in which these will be monitored should be described. These activities will relate to underwriting and policy issued, customer service, investments, accounting, new product pricing, computation of reserves and required solvency margins, regulatory compliance, claim processing and settlement procedures, etc.

13. **Expenses of administration**

In arriving at the premium rates, the appointed actuary will need to build the estimated expense levels into the premium calculations. The manner in which the expenses of administration have been estimated and converted into average factors should be described. These expenses will have to be distinguished between first year and renewal, fixed and variable. All overhead expenses will also have to be covered.

14. **New Product Pricing**

The financial projections will incorporate the sale of planned products. A description of these products to the extent possible should be provided. This should include the following:

- The product features, such as a coverage periods, premium levels, non-forfeiture values,
- The product features, such as a coverage period, premium levels, non forfeiture values, loan provisions, etc.
- Distribution channels to be used
- Commission scales
- Average policy size
• Reserving method used

• The levels of the various parameters built into the computations. These will relate to mortality, policy terminations, expenses, interest and any other parameters that may be relevant for the product. The values of these parameters will have to be specified at two levels—at the Expected level and at a level inclusive of the Margins for Adverse Deviations. The justifications for both levels should be provided

• Profitability criteria used in product pricing

15. Information policy

Mention the Company's policy regarding insurance awareness in the public

16. Premium Rates

Enclose the Company's premium tables for the products along with rebates, if any, offered.

Certification

I, the undersigned, solemnly declare that the facts given in this application form on behalf of the Applicant Company are true and that the projections and estimations are based on reasonable assumptions.

Place.

Date. Signature of the Authorized person (with seal)

Rules regarding obligation of insurers to rural or social sectors

Meaning of rural sector

As per IRDA Act, 1999 rural sector shall mean any place, which meets the following conditions-

(i) a population of less than five thousand;

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(ii) a density of population of less than four hundred per square kilometer; and

(iii) more than twenty-five percent of the male working population is engaged in agricultural pursuits which includes cultivators; agricultural laborers; workers in livestock, forestry, fishing, hunting and plantations, orchards and allied activities.

Meaning of social sector

According to the Act social sector includes the following both in rural and urban areas-

(i) "Unorganized sector" includes self-employed workers such as agricultural labourers, bidi workers, brick kiln workers, carpenters, cobbler, construction workers, fishermen, hamals, handicraft artisans, handloom and khadi workers, lady tailors, leather and tannery workers, papad makers, power loom workers, physically handicapped self-employed persons, primary milk producers, rickshaw pullers, safai karmacharis, salt growers, sericulture workers, sugarcane cutters, tendu leaf collectors, toddy tappers, vegetable vendors, washerwomen, working women in hills, or such other categories of persons;

(ii) "economically vulnerable or backward classes" means persons who live below the poverty line;

(iii) "other categories of persons" includes persons with disability as defined in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) and who may not be gainfully employed; and also includes guardians who need insurance to protect spastic persons or persons with disability;

(iv) "informal sector" includes small scale, self-employed workers typically at a low level of organization and technology, with the primary objective of generating employment and income, with heterogeneous activities like retail trade, transport, repair and maintenance, construction, personal and domestic services and manufacturing, with the work mostly labour intensive, having often unwritten and informal employer-employee relationship;
Obligations of insurers

Every insurer, who begins to carry on insurance business after the commencement of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), shall, for the purposes of sections 32B and 32C of the Act, ensure that he undertakes the following obligations, during the first five financial years, pertaining to the persons in—

(a) rural sector,

(i) in respect of a life insurer,—

(I) seven percent. in the first financial year;

(II) nine percent. in the second financial year;

(III) twelve percent. in the third financial year;

(IV) fourteen percent. in the fourth financial year;

(V) sixteen percent. in the fifth financial year, of total policies written direct in that year;

(ii) in respect of a general insurer—

(I) two percent. in the first financial year;

(II) three percent. in the second financial year;

(III) five percent. there after, of total gross premium income written direct in that year.

(b) social sector, in respect of all insurers, —

(I) five thousand lives in the first financial year;

(II) seven thousand five hundred lives in the second financial year;

(III) ten thousand lives in the third financial year;

(IV) fifteen thousand lives in the fourth financial year;

(V) twenty thousand lives in the fifth financial year:

Provided that in the first financial year, where the period of operation is less than twelve months, proportionate percentage or number of lives, as the case may be,
shall be undertaken:

Provided further that the Authority may normally, once in every five years, prescribe or revise the obligations as specified in this Regulation.

**Obligations of existing insurers**

The obligations of existing insurers as on the date of commencement of IRDA Act shall be decided by the Authority after consultation with them and the quantum of insurance business to be done shall not be less than what has been recorded by them for the accounting year ended 31st March 2002. The Authority shall review such quantum of insurance business periodically and give directions to the insurers for achieving the specified targets.

**Rules regarding protection of policyholders interests**

**Point of sales**

A prospectus of any insurance product shall clearly state the scope of benefits, the extent of insurance cover and in an explicit manner explain the warranties, exceptions and conditions of the insurance cover and, in case of life insurance, whether the product is participating (with profits) or non-participating (without profits). The allowable rider or riders on the product shall be clearly spelt out with regard to their scope of benefits, and in no case, the premium relatable to health related or critical illness riders in the case of term or group products shall exceed 100% of premium under the basic product. All other riders put together shall be subject to a ceiling of 30 percent of the premium of the basic product. Any benefit arising under each of the riders shall not exceed the sum assured under the basic product:

Provided that the benefit amount under riders shall be subject to section 2(11) of the Insurance Act, 1938.

An insurer or its agent or other intermediary shall provide all material information in respect of a proposed cover to the prospect to enable the prospect to decide on the best cover that would be in his or her interest.

Where the prospect depends upon the advice of the insurer or his agent or an
insurance intermediary, such a person must advise the prospect dispassionately.

Where, for any reason, the proposal and other connected papers are not filled by the prospect, a certificate may be incorporated at the end of proposal form from the prospect that the contents of the form and documents have been fully explained to him and that he has fully understood the significance of the proposed contract.

In the process of sale, the insurer or its agent or any intermediary shall act according to the code of conduct prescribed by—

(i) the Authority;

(ii) the Councils that have been established under section 64C of the, Insurance Act. and

(iii) the recognized professional body or association of which the agent or intermediary or insurance intermediary is a member.

Proposal for insurance

Except in cases of a marine insurance cover, where current market practices do not insist on a written proposal form, in all cases, a proposal for grant of a cover, either for life business or for general business, must be evidenced by a written document. It is the duty of an insurer to furnish to the insured free of charge, within 30 days of the acceptance of a proposal, a copy of the proposal form.

Forms and documents used in the grant of cover may, depending upon the circumstances of each case, be made available in language recognized under the Constitution of India.

In filling the form of proposal, the prospect is to be guided by the provisions of section 45 of the Insurance Act. Any proposal form seeking information for grant of life cover may prominently state therein the requirements of section 45 of the Insurance Act.

Where a proposal form is not used, the insider shall record the information obtained orally or in writing, and confirm it within a period of 15 days thereof with the proposer and incorporate the information in its cover notes or policy. The onus of proof shall rest with life insurer in respect of any information not so recorded, where
the insurer claims that the proposer suppressed any material information or provided misleading or false information on any matter material to the grant of a cover.

Wherever the benefit of nomination is available to the proposer, in terms of the Act or the conditions of policy, the insurer shall draw the attention of the proposer to it and encourage the prospect to avail the facility.

Proposal shall be processed by the insurer with speed and efficiency and all decisions thereof shall be communicated by it in writing within a reasonable period not exceeding 15 days from receipt of proposal by the insurer.

**Grievance redressal procedure**

Every insurer shall have in place proper procedures and effective mechanism to address complaints and grievances of policyholders efficiently and with speed and the same along with the information in respect of Insurance Ombudsman shall be communicated to the policyholder along with the policy document and as may be found necessary.

**Matters to be stated in life insurance policy**

A life insurance policy shall clearly state the name of the plan governing the policy, its terms and conditions; whether it is participating in profits or not; the basis of participation in profits such as cash bonus, deferred bonus, simple or compound reversionary bonus; the benefits payable and the contingencies upon which these are payable and the other terms and conditions of the insurance contract; the details of the riders attaching to the main policy; the date of commencement of risk and the date of maturity or date(s) on which the benefits are payable; the premium payable, periodicity of payment, grace period allowed for payment of the premium, the date of the last installment of premium, the implication of discontinuing the payment of an installment(s) of premium and also the provisions of a guaranteed value; the age at entry and whether the same has been admitted; the policy requirements for (a) conversion of the policy into paid up policy, (b) surrender, (c) non-forfeiture, and (d) revival of lapsed policies; contingencies excluded from the scope of the cover, both in respect of the main policy and the riders; the provisions for nomination, assignment, and loans on security of the policy and a statement that the rate of interest payable on
such loan amount shall be as prescribed by the insurer at the time of taking the loan; any special clauses or conditions, such as, first pregnancy clause, suicide clause, etc.; and the address of the insurer to which all communications in respect of the policy shall be sent the documents that are normally required to be submitted by a claimant in support of a claim under the policy.

While forwarding the policy to the insured, the insurer shall inform by the letter forwarding the policy that he has a period of 15 days from the date of receipt of the policy document to review the terms and conditions of the policy and where the insured disagrees to any of those terms or conditions, he has the option to return the policy stating the reasons for his objection, when he shall be entitled to a refund of the premium paid, subject only to a deduction of proportionate risk premium for the period on cover and the expenses incurred by the insurer on medical examination of the proposer and stamp duty charges. In respect of a unit linked policy, in addition to the deductions the insurer shall also be entitled to repurchase the unit at the price of the units on the date of cancellation.

In respect of a cover, where premium charged is dependent on age, the insurer shall ensure that the age is admitted as far as possible before issuance of the policy document. In case where age has not been admitted by the time the policy is issued, the insurer shall make efforts to obtain proof of age and admit the same as soon as possible.

**Claims procedure in respect of life insurance policy**

A life insurance policy shall state the primary documents, which are normally required to be submitted by a claimant in support of a claim. A life insurance company, upon receiving a claim, shall process the claim without delay. Any queries or requirement of additional documents, to the extent possible, shall be raised all at once and not in a piecemeal manner, within a period of 15 days of the receipt of the claim. A claim under a life policy shall be paid or be disputed giving all the relevant reasons, within 30 days from the date of receipt of all relevant papers and clarifications required. However, where the circumstances of a claim warrant an investigation in the opinion of the insurance company, it shall initiate and complete such investigation at the earliest, in any case not later than 6 months from the time of
lodging the claim.

Subject to the provisions of section 47 of the Insurance Act, where a claim is ready for payment but the payment cannot be made due to any reasons of a proper identification of the payee, the life insurer shall hold the amount for the benefit of the payee and such an amount shall earn interest at the rate applicable to a saving bank account with a scheduled bank (effective" from 30 days following the submission of all papers and information).

Where there is a delay on the part of the insurer processing a claim for a reason other than the one covered above in section 7 of the Insurance Act, the life insurance company shall pay interest on the claim amount at a rate which is 2 percent above the bank rate prevalent at the beginning of the financial year in which the claim is reviewed by it.

**Policyholders' servicing**

An insurer carrying on life or general business, as the case may be, shall at all times, respond within 10 days of the receipt of any communication from its policyholders in all matters, such as – recording change of address; noting a new nomination or change of nomination under a policy; noting an assignment on the policy; providing information on the current status of a policy indicating matters, such as, accrued bonus, surrender value and entitlement to a loan; processing papers and disbursal of a loan on security of policy; issuance of duplicate policy; issuance of an endorsement under the policy; noting a change of interest or sum assured or perils insured, financial interest of a bank and other interests; and guidance of the procedure for registering a claim and early settlement thereof.

**General**

(1) The requirements of disclosure of "material information" regarding a proposal or policy apply, under these regulations, both to the insurer and the insured.

(2) The policyholder shall assist the insurer, if the latter so requires, in the prosecution of a proceeding or in the matter of recovery of claims, which the insurer has against third parties.

(3) The policyholder shall furnish all information that is sought from him by the insurer and also any other information, which the insurer considers as having a
bearing on the risk to enable the latter to assess properly the risk sought to be covered by a policy.

(4) Any breaches of the obligations cast on an insurer or insurance agent or insurance intermediary in terms of these regulations may enable the Authority to initiate action against each or all of them, jointly or severally, under the Act and/or the Insurance Regulatory and Development Authority Act, 1999.

**Rules regarding distribution of surplus**

The surplus of the insurance company has to be distributed between two types of policyholders (a) Participating Policyholders (b) Non-participating Policyholders.

**Participating policyholders**

Participating policyholders means the holders of part policies or policies with participation in profits or policies with deferred participation in profits as defined in IRDA (Actuarial Report and Abstract Regulations) Regulation 2000.

**Non-participating policyholders**

Non-participating policyholders means the holders of non-par policies or policies without participation in profits i.e. policies which are not entitled for any share in surplus (profits) during the terms of the policy. With effect from 1st April 2003 a life insurer registered under section 3 of the Insurance Act, 1938 (4 of 1938), shall be required to maintain separately (a) a life fund for participating policy holders. (b) a life -fund for non-participating policyholders.

A failure to comply with the requirements of sub-regulation above shall mean that the life fund maintained by the insurer shall be for the benefit of the participating policyholders only.

**Procedure for distribution of surplus**

A life insurer may, on the advice of his appointed actuary, reserve a part of the actuarial surplus (also referred to as valuation surplus) arising out of a valuation of assets and liabilities made for a financial year in accordance with Insurance

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Regulatory and Development Authority (Actuarial Report and Abstract) Regulations, 2000, to its shareholders, which shall be—

(a) one hundred percent in case of a life fund maintained for non-participating policyholders;

(b) one-ninth of the surplus allocated to policyholders in case of a life fund maintained for participating policyholders:

Provided that an insurer shall, however, be required to obtain prior approval of the Authority in cases where the said allocation is not the one-ninth of the surplus.