



October 2023

This newsletter captures the key regulatory developments in the insurance sector between July 2023 - September 2023.

Indian Risk Based Capital (Ind-RBC) framework

The Insurance Regulatory and Development Authority of India (“IRDAI”) released the framework for the Indian insurance industry regarding the development and implementation of the Ind-RBC.¹ The framework acts as a catalyst for insurers in optimizing capital utilization. It has initiated the First Quantitative Impact Study (“QIS1”), which will comprehensively evaluate the potential impact on the capital and overall solvency of the insurers.

IRDAI has also issued technical guidance², applicable to all life insurers, general insurers, standalone health insurers, reinsurers, branches of foreign reinsurers and Lloyds India, with the aim of promoting ease of doing business and to provide instructions to the insurance industry in quantifying and assessing the risks in the QIS1. These directions will ensure a streamlined progression and entrust the insurers with the responsibility of submitting the outcomes of the QIS1 within a prescribed timeframe. The insurers will submit the results of QIS1 by November 30, 2023.

Amendments to re-insurance regulations

IRDAI issued the IRDAI (Re-insurance) (Amendment) Regulations, 2023 amending the IRDAI (Re-insurance) Regulations, 2018 (“Regulations”) to harmonize the provisions of various regulations applicable to Indian insurers and Indian re-insurers, including Foreign Re-insurance Branches (“FRBs”) and International Financial Services Centres Insurance Offices (“IIOs”). This will enhance ease of doing business and encourage more re-insurers to set up business in India. Some of the key amendments are as follows:

- the Regulations will be reviewed once every 3 (three) years unless a review, repeal or amendment is warranted³;
- every Indian re-insurer including FRBs must maintain a minimum retention within India of 50% of Indian re-insurance business underwritten. Any retrocession to an IIO up to 20% of Indian re-insurance business underwritten will be reckoned towards the required minimum retention of 50%⁴;
- every Indian insurer must submit to the IRDAI, within 90 (ninety) days of the commencement of financial year, a certification from the Chief Executive Officer confirming that all treaties associated with the re-insurance programme for the financial year have been received in original, duly stamped and signed (or digitally signed), from all parties to the treaty⁵.

¹ Press Release dated August 10, 2023.

² Circular dated August 10, 2023.

³ Regulation 1(4) of the IRDAI (Re-insurance) Regulations, 2018.

⁴ Regulation 3 (2) (C) of the IRDAI (Re-insurance) Regulations, 2018.

⁵ Regulation 3 (3) (A) (e) of the IRDAI (Re-insurance) Regulations, 2018.

- every Indian insurer will file its board approved final re-insurance programme within 45 (forty-five) days (this was earlier 30 (thirty) days) from the commencement of the financial year⁶;
- it is no longer essential to submit soft copies of each re-insurance contract, as these must be maintained by every Indian insurer for the period specified in the relevant extant regulations and must be made available to the IRDAI for inspection⁷; and
- reinsurance placements with any international pool or risk sharing arrangement having cross border re-insurer(s) as members, participants or administrators will also require prior approval⁸.

The revamped landscape for the reinsurance market⁹ makes changes to other regulations, such as the minimum capital requirement for FRBs has been lowered from INR 100,00,00,000 (Indian Rupees one hundred crores) to INR 50,00,00,000 (Indian Rupees fifty crores), with the provision to repatriate any excess assigned capital.

The regulatory framework for IIOs has been aligned with IFSC Authority regulations with the intent to remove dual compliance, thereby promoting a seamless integration of these entities into the larger financial ecosystem.

Modifications permitted to withdrawn products of life insurers

To provide additional benefits and enhance flexibility while ensuring that existing policyholders are not adversely impacted, IRDAI has decided to allow the following options in respect of withdrawn products (which were closed for new business and have existing policies in insurer's books), of life insurers,¹⁰ subject to certain conditions¹¹:

- adding riders: companies can offer new riders to the existing policyholders of withdrawn products;
- flexible payments: option to change the premium paying mode can also be provided;
- lower interest rates: reduction in interest rates for policy revivals and policy loans is permitted; and
- more payment options: policyholders can choose how often they receive certain benefits from their policies with income benefit payments.

Guidelines for charging income-tax on life insurance policies

Section 10 (10D) of the Income-tax Act, 1961 (“**IT Act**”) provides for income-tax exemption on any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, subject to certain exclusions. The Finance Act, 2023 had made certain amendments to Section 10(10D) of the IT Act. To streamline and clarify the tax treatment of sums received under life insurance policies, the Ministry of Finance has introduced example-based guidelines under Section 10 (10D) of the IT Act.¹² These apply to life insurance policies (other than unit linked insurance policies) issued on or after April 1, 2023.

Directions from Telecom Regulatory Authority of India (“TRAI”) for curbing the menace of unsolicited commercial communication

TRAI has issued directions¹³ which need to be implemented by the principal entities (senders of commercial communication) in coordination with their telemarketers/ service providers, regarding the verification of headers and message templates. Directions have been issued to ensure that only whitelisted URLs/ Apks/ OTT links/ Call back numbers are allowed in the content template. All access providers to develop and employ the digital consent acquisition facility for creating a unified platform to register customers consent digitally across all service providers and principal entities.

⁶ Regulation 3 (3) (A) (c) of the IRDAI (Re-insurance) Regulations, 2018.

⁷ Regulation 3 (5) of the IRDAI (Re-insurance) Regulations, 2018.

⁸ Regulation 4 (2) of the IRDAI (Re-insurance) Regulations, 2018.

⁹ Press Release dated August 24, 2023.

¹⁰ Circular dated August 31, 2023.

¹¹ Circular dated September 1, 2023.

¹² Circular dated August 16, 2023.

¹³ Circular dated September 15, 2023.

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24 Ranked Lawyers



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11 Ranked Lawyers



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