



## JSA Newsletter Insurance

July – September 2024

This Newsletter captures the key regulatory developments in the insurance sector between July - September 2024. The Insurance Regulatory and Development Authority of India (“**IRDAI**”) has introduced various measures to promote ease of doing business and to ensure the protection of the interests of the policyholders. This Newsletter describes the relevant developments and changes in regulations concerning the insurance sector in the third quarter of 2024.

### Subscribers to other forms of capital

IRDAI, *vide* circular dated September 6, 2024,<sup>1</sup> has amended the Master Circular on Registration, Capital Structure, Transfer of Shares and Amalgamation of Insurers, 2024 dated May 15, 2024 (“**Master Circular**”). Paragraph D.2 of the Master Circular, which stipulates eligible subscribers to other forms of capital (*i.e. preference share capital or subordinated debt*) (“**OFC**”), earlier provided that the OFC issued by any insurer may only be subscribed by an Indian Promoter, Indian Investors, Foreign Promoter and Foreign Investors (each as defined under the IRDAI (Registration, Capital Structure, Transfer of Shares and Amalgamation of Insurers) Regulations, 2024).

However, pursuant to the amendment to Paragraph D.2 of the Master Circular, the OFC issued by an insurer may be subscribed by any of the following entity(ies) subject to compliance with all other applicable laws (for instance, taxation, exchange control, anti-money laundering):

1. any entity incorporated, set-up or registered under any law for the time being in force in India; or
2. any entity incorporated, set-up or registered under any law for the time being in force in any financial action task force compliant jurisdiction.

It has been clarified that any OFC issued prior to September 6, 2024, will continue to be governed by the terms of issuance of the said OFC.

### Protection of policyholders’ interests under the IRDAI (Protection of Policyholders’ Interests, Operations, and Allied Matters of Insurers) Regulations, 2024<sup>2</sup>

Master circular on Protection of Policyholders’ Interests under the IRDAI (Protection of Policyholders’ Interests, Operations, and Allied Matters of Insurers) Regulations, 2024 (“**Policyholders’ Regulations**”) was issued on September 5, 2024. It consolidates policyholder entitlements into a single reference document and emphasizes measures towards providing seamless, faster and hassle-free claims settlement experience to a policyholder and

<sup>1</sup> Circular dated September 6, 2024, IRDAI/F&I/CIR/Misc/119/9/2024

<sup>2</sup> Circular dated September 5, 2024, IRDAI/PP&GR/CIR/MISC/117/9/2024

enhance service standards, to foster a climate of trust and transparency within the insurance sector. It is divided into two sections:

1. Section 1: It contains a summary of important and relevant information at various stages of an insurance contract for the prospects / policyholders / customers; and
2. Section 2: It contains broad requirements to be complied by an insurer under the Policyholders' Regulations.

Some of the key provisions of this master circular are as below:

1. it provides key information/stipulations relevant at various stages of life, health and retail general insurance policies, i.e., prior to sale, at the proposal stage, at the time of receipt of policy document, during the currency of the policy, and at the time of claim;
2. insurers are mandated to provide a Customer Information Sheet ("CIS") for all insurance segments detailing key policy features, benefits, and exclusions;
3. the proposal form and CIS must be made available in regional language upon request of the prospect/policyholder;
4. a 30 (thirty) day free look period applies to both life and health insurance policies, thereby allowing policyholders to review the policy terms and conditions. In case a policyholder is not satisfied with any of the terms and conditions, they have the option to cancel their policy;
5. insurers are required to enable their information technology systems to interact with Digilocker allowing policyholders to use this service effectively;
6. no premium / proposal deposit would be required to be paid to the life/health insurer along with the proposal form except in case of policies where risk cover commences immediately on receipt of premium;
7. a claimant/policyholder can search for unclaimed amounts payable to them at the Bima Bharosa website of IRDAI (which provides at one place access to website links of various insurers where unclaimed amounts held by them are displayed) or verify from the website of the concerned insurer; and
8. every insurer must put in place Citizens' Charter specifying the service standards both in qualitative and quantitative terms to empower customers with information about availability of products, standards of service, time limit that the customers can reasonably expect and avenues of grievance redressal.

## Withdrawal of guidance on commission on long-term motor policies<sup>3</sup>

Pursuant to the notification of the IRDAI (Expenses of Management, including Commission, of Insurers) Regulations, 2024 ("**EoM Regulations**"), IRDAI, *vide* its circular dated July 18, 2024, has repealed the circular dated August 29, 2018<sup>4</sup> on Payment of Commission, Remuneration, Rewards and Distribution Fees under Long Term Motor Insurance Policies ("**2018 Circular**").

The 2018 Circular primarily prescribed the structure for payment of commission, remuneration and rewards to the insurance agents and insurance intermediaries for long duration motor insurance policies.

The EoM Regulations read with the master circular on Expenses of Management, including Commission, of Insurers, 2024,<sup>5</sup> provide flexibility to the insurers to manage their expenses, including payment of commissions, within the overall limits specified by IRDAI. Accordingly, the 2018 Circular had become redundant with the notification of the EoM Regulations and has now been repealed.

<sup>3</sup> Circular dated July 18, 2024, IRDAI/INT/CIR/MISC/104/7/2024

<sup>4</sup> Circular dated August 29, 2018, IRDA/INT/CIR/COMM/139/08/2018

<sup>5</sup> Circular dated March 15, 2024, IRDAI/F&I/CIR/79/5/2024

## Amendments made to the master guidelines on anti-money laundering/ counter financing of terrorism<sup>6</sup>

Pursuant to the recent amendments made to the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005 (“**PML Rules**”), IRDAI has amended the Master Guidelines on Anti-money Laundering/ Counter Financing of Terrorism dated August 1, 2022 (“**Master Guidelines**”).<sup>7</sup> Clause 12 of the Master Guidelines *inter-alia* provided that insurers must refer to the Central KYC Registry (“**CKYCR**”) for retrieving the Know Your Customer (“**KYC**”) records without asking the customer to submit KYC records again. However, pursuant to the amendment, the Master Guidelines are modified as follows:

1. as part of compliance with the KYC norms, insurers must adopt the procedure specified in Rule 9(1C) of the PML Rules, which requires that, for the purposes of verification of identity of clients, the reporting entity must seek the KYC identifier from clients or retrieve the KYC identifier from CKYCR(if available) and not require the client to resubmit such records/information except in certain cases such as change in information, record being incomplete or not as per current applicable KYC norms, validity period of document having lapsed;
2. the obligation of insurers to search for KYC identifier (with certain credentials) on the CKYCR portal (if KYC identifier is not submitted by the client/customer) has now been omitted;
3. where additional/updated KYC information is obtained from a client under Rule 9(1C) of the PML Rules, insurers must furnish the updated information to the CKYCR within 7 (seven) days or other stipulated time period; and
4. if an update in the KYC record of an existing client is informed by the CKYCR to the insurer, the insurer must retrieve the updated KYC records from the CKYCR and update the KYC records maintained by it.

## Accessibility standards and guidelines for infrastructure and services in insurance sector<sup>8</sup>

To address the accessibility needs of persons with disabilities in respect of the facilities and services in the insurance sector, the Ministry of Finance has issued the ‘Accessibility Standards and Guidelines for Infrastructure and Services in the Insurance Sector’. These aim to make insurance facilities and services accessible to individuals with disabilities, in both urban and rural areas, in line with the Rights of Persons with Disabilities Act, 2016. Some of the facilities and services in the insurance sector for persons with disabilities are as follows:

1. home collection/delivery of insurance and /or claim documents, for persons with disabilities, through insurance agents/by post/courier/electronic means;
2. insurance offices to provide all practical assistance to persons with disabilities so as to ensure that no person with disability is denied access due to non-availability of accessibility in services;
3. website and apps should be designed and developed in such way that they are accessible by all people, whatever may be their hardware, software, language, culture, location, or physical or mental ability;
4. documents to be placed on websites must be in electronic publication or Optical Character Reader based pdf format; and
5. every building owned, operated/used and/or managed in the insurance sector must be compliant with Harmonized Guidelines and Standards of Universal Accessibility in India, 2021 issued by the Ministry of Housing and Urban Affairs.

<sup>6</sup> Circular dated August 12, 2024. IRDAI/IID/CIR/MISC/112/8/2024

<sup>7</sup> Circular dated August 1, 2024, IRDAI/IID/CIR/MISC/112/8/2024

<sup>8</sup> Notification dated August 20, 2024. CG-DL-E-20082024-256498

## Insurance Practice

JSA is a trusted advisor to leading insurers, reinsurers, brokers, underwriters and consultants on complex transactions, disputes, financing and regulatory and commercial matters. The team with domain-expertise in the sector has an unparalleled ability to assist insurance companies in their Indian operations. JSA has been keenly involved in advising private players both in life and non-life insurance sectors on diverse matters relating to: (a) Regulatory approvals; (b) Compliance requirements; (c) M&A transactions; (d) corporate and regulatory issues; (e) Litigation relating to insurance claims.

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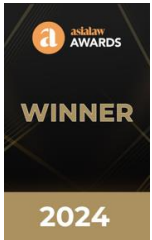

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<p>18 Practices and 25 Ranked Lawyers</p>	<p>7 Ranked Practices, 16 Ranked Lawyers</p> <p>-----</p> <p>Elite – Band 1 -</p>	<p>12 Practices and 42 Ranked Partners</p> <p><b>IFLR1000 APAC Rankings 2023</b></p> <p>-----</p>
	<p>Corporate/ M&amp;A Practice</p> <p>-----</p> <p>3 Band 1 Practices</p> <p>-----</p>	<p>Banking &amp; Finance Team of the Year</p> <p>-----</p>
<p>14 Practices and 38 Ranked Lawyers</p>	<p>4 Band 1 Lawyers,1 Eminent Practitioner</p>	<p>Fintech Team of the Year</p> <p>-----</p> <p>Restructuring &amp; Insolvency Team of the Year</p>
		
<p>20 Practices and 22 Ranked Lawyers</p>	<p>Ranked Among Top 5 Law Firms in India for ESG Practice</p>	<p>Recognised in World's 100 best competition practices of 2024</p>
		
<p>Among Top 7 Best Overall Law Firms in India and 11 Ranked Practices</p> <p>-----</p> <p>11 winning Deals in IBLJ Deals of the Year</p> <p>-----</p> <p>12 A List Lawyers in IBLJ Top 100 Lawyer List</p>	<p>Asia M&amp;A Ranking 2024 – Tier 1</p> <p>-----</p> <p>Employer of Choice 2024</p> <p>-----</p> <p>Energy and Resources Law Firm of the Year 2024</p> <p>-----</p> <p>Litigation Law Firm of the Year 2024</p>	<p>Energy - Law Firm of the Year (APAC)</p>
		
		<p>7 Practices and 3 Ranked Lawyers</p>

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