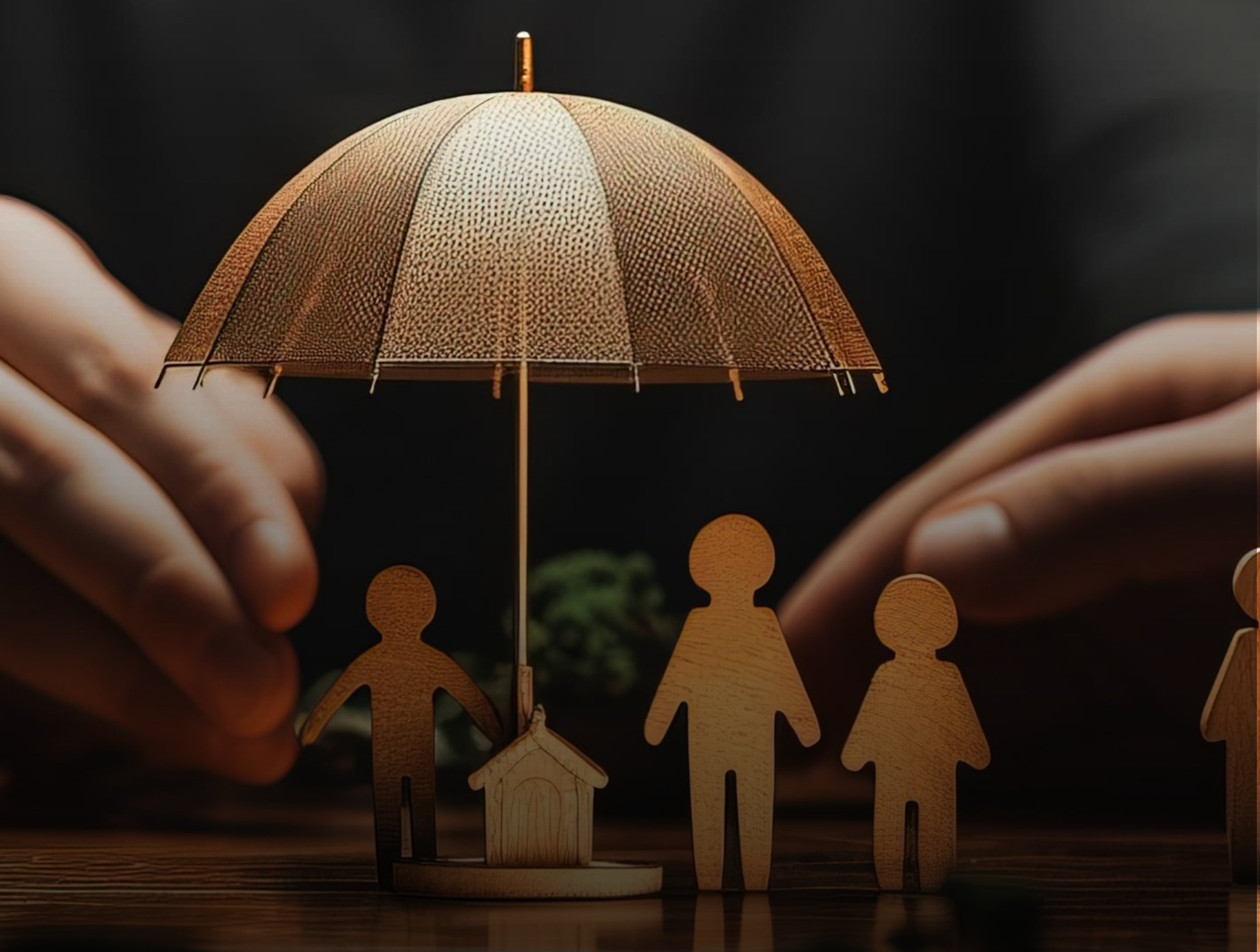
advocates & solicitors



Knowledge Management

Semi-Annual Insurance Compendium 2024

July – December 2024

Semi-Annual Insurance Compendium 2024

Introduction

The second half of 2024 witnessed some interesting regulatory developments to strengthen the insurance sector in India as in November 2024, the 8th Bima Manthan, was organised to focus on equipping India's insurance industry for future challenges and aligning it with global standards. Key discussions included the implementation of the Indian Risk-Based Capital regime, Risk-Based Supervisory Framework, and Indian Accounting Standards. Updates on the Bima Sugam digital platform underscored its potential to enhance accessibility and transparency. The event reinforced a collective commitment to achieving the vision of '**Insurance for All by 2047**'.

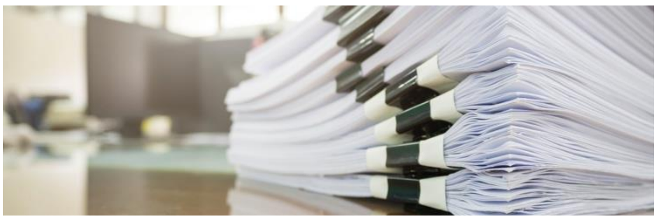
In line with this vision, the Government of India is considering amendments to the Insurance Act, 1938, the Life Insurance Corporation Act, 1956, and the Insurance Regulatory and Development Authority Act, 1999. The proposed changes aim to improve accessibility, affordability, and efficiency in the insurance sector.

Further, in November 2024, the Ministry of Finance invited stakeholders' comments on proposals such as raising the Foreign Direct Investment limit to 100%, reducing the net owned fund requirement for foreign reinsurers, allowing multi-class insurance businesses, and empowering the Insurance Regulatory and Development Authority of India ("**IRDAI**") to specify lower entry capital for underserved markets. These measures are designed to protect policyholders' interests, increase insurance penetration, and foster economic growth.

According to news reports, the Parliamentary Committee has approved these reforms, and the Insurance Bill may be introduced in the upcoming parliamentary session.

This Compendium consolidates all key developments pertaining to the Insurance Sector which were circulated as a part of the JSA Prisms and Newsletters during the calendar period from July 2024 till December 2024.

To access the first Semi-Annual Insurance Law Compendium from January 2024 to June 2024, please *click here*.



IRDAI

Withdrawal of guidance on commission on long-term motor policies[1]

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, repealed the circular dated August 29, 2018[2] 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,[3] 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 are repealed.

Protection of policyholders' interests under the IRDAI (Protection of Policyholders' Interests, Operations, and Allied Matters of Insurers) Regulations, 2024[4]

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 emphasises measures towards providing seamless, faster and hassle-free claims settlement experience to a policyholder and enhance service standards, to foster a climate of trust and transparency within the insurance sector. It is divided into 2 (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

[1] Circular dated July 18, 2024, IRDAI/INT/CIR/MISC/104/7/2024
[2] Circular dated August 29, 2018, IRDA/INT/CIR/COMM/139/08/2018
[3] Circular dated March 15, 2024, IRDAI/F&I/CIR/79/5/2024
[4] Circular dated September 5, 2024, IRDAI/PP&GR/CIR/MISC/117/9/2024

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.

Subscribers to other forms of capital

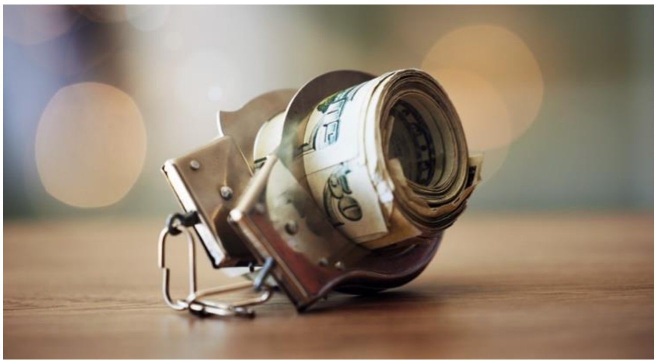
IRDAI, *vide* circular dated September 6, 2024,[5] amended the Master Circular on Registration, Capital Structure, Transfer of Shares and Amalgamation of Insurers, 2024 dated May 15, 2024 ("**Master Circular**"). Paragraph D.2 of the Master Circular, which stipulates eligible subscribers to other forms 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).

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



Amendments made to the master guidelines on anti-money laundering/counter financing of terrorism[6]

Pursuant to the amendments made to the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005 ("**PML Rules**"), IRDAI amended the Master Guidelines on Anti-money Laundering/ Counter Financing of Terrorism dated August 1, 2022 ("**Master Guidelines**").[7] 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. 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

[5] Circular dated September 6, 2024, IRDAI/F&I/CIR/Misc/119/9/2024
[6] Circular dated August 12, 2024. IRDAI/IID/CIR/MISC/112/8/2024
[7] Circular dated August 1, 2024, IRDAI/IID/CIR/MISC/112/8/2024

portal (if KYC identifier is not submitted by the client/customer) are 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[8]

To address the accessibility needs of persons with disabilities in respect of the facilities and services in the insurance sector, the Ministry of Finance 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:

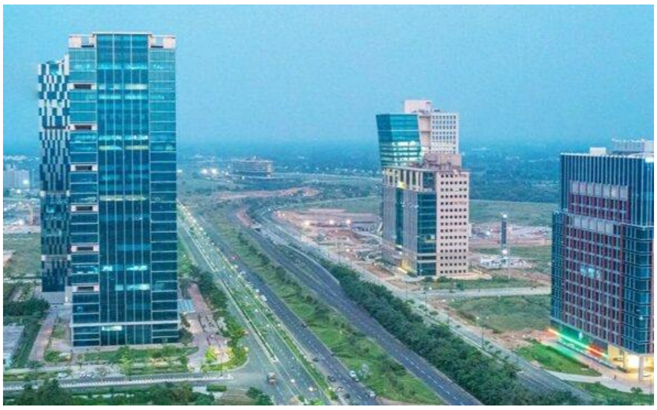
1. home collection/delivery of insurance and/or claim documents, for persons with disabilities, through insurance agents/by post/courier/electronic means;

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 Harmonised Guidelines and Standards of Universal Accessibility in India, 2021 issued by the Ministry of Housing and Urban Affairs.



International Financial Services Centres Authority

Investment of funds of unit linked insurance business[9]

The International Financial Services Centres Authority ("**IFSCA**"), *vide* notification dated October 17, 2024, issued the IFSCA (Investment by International Financial Services Centre Insurance Office) (Amendment) Regulations, 2024, amending the IFSCA (Investment by International Financial Services Centre Insurance Office) Regulations, 2022. Some of the key amendments are as follows:

1. Regulation 9A is inserted in relation to dealings with the investment of the funds pertaining to unit linked insurance products by International Financial Services Centre Insurance Office ("**IIO**"). Every IIOs must invest and keep invested its funds of unit linked business as per the pattern of investment subscribed by the policyholders, where the units are linked to categories of assets which are both marketable and readily feasible.

2. Matrix 1A under Regulation 9A prescribes the exposure limits for investment of unit linked business assets in entities, group and industry. These limits are applicable at the level of individual segregated fund as set out below:

[8] Notification dated August 20, 2024. CG-DL-E-20082024-256498

[9] Notification dated October 17, 2024. CG-GJ-E-21102024-258104

Sl. No.	Overall exposure by an insurer	Maximum investment by an insurer as a % of the total unit linked business assets
1	A single entity (investee)	10
2	Within the IIO's own group	5
3	To any other single group	15
4	To a particular industrial sector	15

3. For the investments in passively managed/index-based mutual funds and exchange traded funds, the above-mentioned exposure norms (other than within the IIO's own group) will apply only after (the earlier of):
   a) 3 (three) years from the date of launch of individual segregated unit linked fund; or
   b) the assets under management of an individual segregated unit linked fund becomes equal to or more than USD 25,000,000 (US Dollars twenty-five million).
4. Regulation 9B is inserted in relation to the investment of retained premiums by IIOs in Domestic Tariff Area (“**DTA**”). The type of investment assets and the maximum exposure limits for such investment by IIOs in DTA must be in accordance with the prescribed Matrix IB as set out below:

Sl. No.	Type of Investment Asset	Maximum Exposure Limit (%)
1	Securities of Central Government of India	10
2	Corporate bonds	15
3	SEBI approved Alternative Investment Funds	10
4	Immovable property including Real Estate Investment Trusts	5
5	Infrastructure including Infrastructure Investment Trusts and instruments for financing Infrastructure Assets	5
6	Money markets instruments for short period	90
7	Investment in ‘equity’, preference shares, convertible debentures	25
8	Investment in debt	90

Streamlining the registration process for insurance businesses within the IFSCA[10]

IFSCA, *vide* notification dated October 17, 2024, issued the IFSCA (Registration of Insurance Business) (Amendment) Regulations, 2024 amending the IFSCA (Registration of Insurance Business) Regulations, 2021. Some of the key amendments are as follows:

1. at the time of making the application, the applicant must opt for a category under Regulation 5(2)(A) (Offer for Participation under Procedures for Re-insurance placements) of the IRDAI (Re-insurance) Regulations, 2018, under which it intends to

[10] Notification dated October 17, 2024. F. No. IFSCA/GN/2024/010

participate in reinsurance business emanating from the DTA; and

2. certain forms, such as FORM-A (application by an Indian insurer or Indian re-insurer for grant of certificate of registration as IIO), FORM-B (application by a foreign insurer or foreign re-insurer for grant of certificate of registration as an IIO), FORM-C (joint application by an managing general agent and foreign insurer or foreign reinsurer for grant of certificate of registration as an IIO) and FORM-D (application by an public company, wholly owned subsidy of insurer or re-insurer, insurance co-operative society, body corporate incorporated outside India for grant of certificate of registration as IIO) in the First Schedule relating to application for registration and FORM A (certificate of registration) and FORM B (joint certificate of registration for managing general agent and relevant foreign insurer or foreign re-insurer) in Fourth Schedule relating to certificate of registration, are omitted, pursuant to the introduction of Single Window IT Systems (SWITS) by the IFSCA.

Ministry of Environment, Forest and Climate Change

Improving processes for claims for relief against environmental damages[11]

The Ministry of Environment, Forest and Climate Change ("**MoEFCC**"), *vide* notification dated December 17, 2024, issued the Public Liability Insurance (Amendment) Rules, 2024, amending the Public Liability Insurance Rules, 1991. Some of the key provisions are as follows:

1. Rule 3 is revised to specify that applications for property restoration can be made to the collector in Form I. Further, it is clarified that an application for claim for restoration of the property may also be filed by a person who holds an interest in the affected public property, and can demonstrate a direct and substantial connection with that property;
2. Rule 3A is inserted outlining the process for allocating funds from the Environmental Relief Fund ("**Fund**") for environmental damage restoration. The Central Pollution Control Board ("**CPCB**") or State Pollution Control Boards ("**SPCBs**") must apply to the Central Government in Form II for allocation of funds from the Fund. The Central Government will determine the amount to be allocated from the Fund, which cannot exceed 10% of the amount available in the Fund, and an order in this regard will be issued in Form III;
3. Rule 5A is inserted mandating industrial units to publicise among the affected persons their right to claim for relief in case of an accident occurring in any industrial unit;
4. Rule 9 is substituted to specify that the notice of intent to make a complaint of an alleged offence under Section 18(b) of the Public Liability Insurance Act, 1991 must be sent through registered speed post or electronic mail using Form IV, to the CPCB or to the secretary to the Government of India in the MoEFCC (in case the offence is committed in Union Territory) or to the SPCB or to the secretary of the State Government in charge of the Department of Environment and Forest (in case offence is committed in the State);
5. the maximum insurance policy limit under Section 4(2A) of the Public Liability Insurance Act, 1991 is increased to INR 250,00,00,000 (Indian Rupees two hundred and fifty crore) per incident (earlier this was INR 5,00,00,000 (Indian Rupees five crore)) and INR 500,00,00,000 (Indian Rupees five hundred crore) for multiple accidents in a policy year (earlier this was INR 15,00,00,000 (Indian Rupees fifteen crore)). The owner is liable to

[11] Notification dated December 17, 2024. G.S.R. 772(E)

reimburse or provide relief for the loss or damage in accordance with the amounts specified in the Second Schedule of the amended rules; and

6. Rules 12 to 16 are inserted outlining the process for filing complaints (Form V), manner of holding inquiries (involving issuance of notice by the adjudicating officer in Form VI and evidence submission in Form VII), transfer of complaint, extension of time and issuing orders or fines. The adjudicating officer is required to complete the proceeding within 6 (six) months of the issuance of the notice.

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 insurers 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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