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## **1. INTRODUCTION**

### **What is insurance?**

Insurance may be described as a social device to reduce or eliminate risk of life and property. Under the plan of insurance, a large number of people associate themselves by sharing risk, attached to individual. The risk, which can be insured against include fire, the peril of sea, death, incident, & burglary. Any risk contingent upon these may be insured against at a premium commensurate with the risk involved.

Insurance is actually a contract between 2 parties whereby one party called insurer undertakes in exchange for a fixed sum called premium to pay the other party ON happening of a certain event.

Insurance is a contract whereby, in return for the payment of premium by the insured, the insurers pay the financial losses suffered by the insured as a result of the occurrence of unforeseen events. With the help of Insurance, large number of people exposed to similar risks makes contributions to a common fund out of which the losses suffered by the unfortunate few, due to accidental events, are made good.

An insurer is a company selling the insurance; an insured or policyholder is the person or entity buying the insurance. The insurance rate is a factor used to determine the amount to be charged for a certain amount of insurance coverage, called the premium.

According to J.B. Maclean, “Insurance is a method of spreading over a large number of persons a possible financial loss too serious to be conveniently borne by an individual.”

### **What is insurance law?**

Insurance law is the name given to practices of law surrounding insurance, including insurance policies and claims. Insurance regulation that governs the business of insurance is typically aimed at assuring the solvency of insurance companies. Thus,

this type of regulation governs capitalization, reserve policies, rates and various other "back office" processes.

### **Need for insurance**

All assets have some economic value attached to them. There is also a possibility that these assets may get damaged/destroyed or become non-operational due to risks like breakdowns, fire, floods, earthquake etc. Different assets are exposed to different types of risks like a car has a risk of theft or meeting an accident, a house is exposed to risk of catching fire, a human is exposed to risk of death/accident. Hence insurance is required for the following reasons:

- Insurance acts as an important tool in providing a sense of security to the society on a whole. In case the bread earner of a family dies, the family suffers from direct financial loss as family's income ceases. Life insurance is one alternate arrangement that offers some respite to the family from financial distress.
- The basic need of insurance arises as risks are uncertain and unpredictable in nature. Getting insurance for an asset does not mean that the asset is protected against risks or its exposure to risk is reduced, but it actually implies that in case the asset suffers any loss in value due to such risk, the insurance company bears the loss and compensates the insured by making payment to him.
- Insurance acts as a useful instrument in promoting savings and investments, particularly within the lower income and middle income families. These savings are used as investments to fuel economic growth.

### **Types of insurance**

Insurance business is divided into following types of business namely:

- 1) Life Insurance, and

2) General Insurance

- a. Marine insurance
- b. Fire insurance
- c. Motor vehicle insurance
- d. Miscellaneous insurance

3) Reinsurance

## **2. HISTORICAL BACKGROUND OF INSURANCE**

Early methods of transferring or distributing risk were practiced by Chinese and Babylonian traders as long ago as the 3rd and 2nd millennia BC, respectively. Chinese merchants travelling treacherous river rapids would redistribute their wares across many vessels to limit the loss due to any single vessel's capsizing. The Babylonians developed a system which was recorded in the famous Code of Hammurabi, c. 1750 BC, and practiced by early Mediterranean sailing merchants. If a merchant received a loan to fund his shipment, he would pay the lender an additional sum in exchange for the lender's guarantee to cancel the loan should the shipment be stolen.

Achaemenian monarchs of Ancient Persia were the first to insure their people and made it official by registering the insuring process in governmental notary offices. The insurance tradition was performed each year in Nowruz (beginning of the Iranian New Year); the heads of different ethnic groups as well as others willing to take part, presented gifts to the monarch. The most important gift was presented during a special ceremony. When a gift was worth more than 10,000 Derrik (Achaemenian gold coin) the issue was registered in a special office. This was advantageous to those who presented such special gifts. For others, the presents were fairly assessed by the confidants of the court. Then the assessment was registered in special offices.

A thousand years later, the inhabitants of Rhodes (an island in Greece) created the 'general average', which allowed groups of merchants to pay to insure their goods being shipped together. The collected premiums would be used to reimburse any merchant whose goods were jettisoned during transport, whether to storm or sinkage.

The ancient Athenian "maritime loan" advanced money for voyages with repayment being cancelled if the ship was lost. In the 4th century BC, rates for the loans differed according to safe or dangerous times of year, implying an intuitive pricing of risk with an effect similar to insurance.

The Greeks and Romans introduced the origins of health and life insurance c. 600 BCE when they created guilds called "benevolent societies" which cared for the families of deceased members, as well as paying funeral expenses of members. Guilds in the Middle Ages served a similar purpose. The Talmud deals with several aspects of insuring goods. Before insurance was established in the late 17th century, "friendly societies" existed in England, in which people donated amounts of money to a general sum that could be used for emergencies.

Separate insurance contracts (i.e., insurance policies not bundled with loans or other kinds of contracts) were invented in Genoa (a city and important seaport in northern Italy) in the 14th century, as were insurance pools backed by pledges of landed estates. The first known insurance contract dates from Genoa in 1343, and in the next century maritime insurance developed widely and premiums were intuitively varied with risks. These new insurance contracts allowed insurance to be separated from investment, a separation of roles that first proved useful in marine insurance. The first printed book on insurance was the legal treatise *On Insurance and Merchants' Bets* by Pedro de Santarém (Santerna), written in 1488 and published in 1552.

Insurance as we know it today can be traced to the Great Fire of London, which in 1666 devoured 13,200 houses. In the aftermath of this disaster, Nicholas Barbon opened an office to insure buildings. In 1680, he established England's first fire insurance company, "The Fire Office," to insure brick and frame homes.

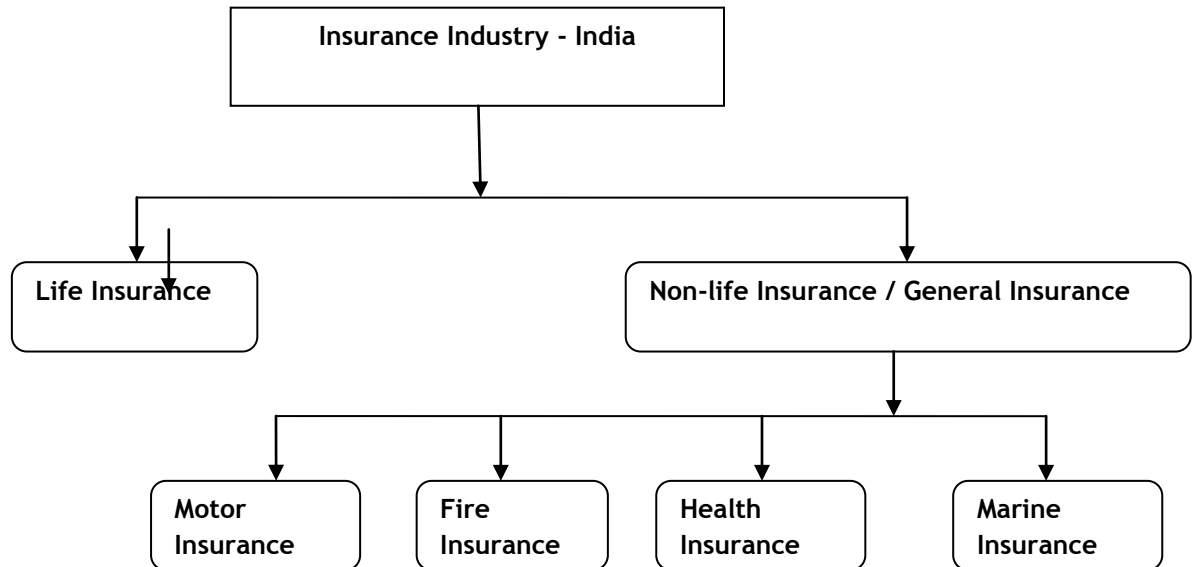
The concept of health insurance was proposed in 1694 by Hugh the Elder Chamberlen from the Peter Chamberlen family. In the late 19th century, "accident insurance" began to be available, which operated much like modern disability insurance. This payment model continued until the start of the 20th century in some jurisdictions (like California), where all laws regulating health insurance actually referred to disability insurance.

The first insurance company in the United States underwrote fire insurance and was formed in Charles Town (modern-day Charleston), South Carolina in 1732, but it provided only fire insurance.

The sale of life insurance in the U.S. began in the late 1760s. The Presbyterian Synods in Philadelphia and New York founded the Corporation for Relief of Poor and Distressed Widows and Children of Presbyterian Ministers in 1759; Episcopalian priests created a comparable relief fund in 1769. Between 1787 and 1837 more than two dozen life insurance companies were started, but fewer than half a dozen survived.

### 3. INSURANCE SCENARIO IN INDIA

#### Classification of Insurance industry in India



In life insurance business, India ranked 9<sup>th</sup> among the 156 countries, for which data are published by Swiss Re. During 2010-11, the estimated life insurance premium in India grew by 4.2 per cent (inflation adjusted). However, during the same period, the global life insurance premium expanded by 3.2 per cent. The share of Indian life insurance sector in global market was 2.69 per cent during 2010, as against 2.45 per cent in 2009.

The non-life insurance sector witnessed significant growth of 8.1 per cent during 2010. Its performance is far better when compared to global non-life premium, which expanded by 2.1 per cent during the same period. The share of Indian non-life insurance premium in global non-life insurance premium increased slightly to 0.58 per cent, thereby improving its global ranking to 19<sup>th</sup> in comparison to 26<sup>th</sup> in last year.

The measure of insurance penetration and density reflects the level of development of insurance sector in a country. While insurance penetration is measured as the percentage of insurance premium to GDP, insurance density is calculated as the ratio of premium to population (per capita premium). Since opening up of Indian insurance



sector for private participation, India has reported increase in insurance density. The insurance density of life insurance sector had gone up from USD 9.1 in 2001 to USD 55.7 in 2010. Similarly, insurance penetration had gone up from 2.15 per cent in 2001 to 4.60 in 2009, before slipping to 4.40 per cent in 2010.

As on September 2012, there are 24 insurance companies in the life insurance business and 27 companies in general insurance business. In addition, GIC is the sole national re-insurer.

Life insurance industry recorded a premium income of Rs.2,91,605 crore during 2010-11 as against Rs.2,65,447 crore in the previous financial year, registering a growth of 9.85 per cent. While private sector insurers posted 11.04 per cent growth (23.06 per cent in previous year) in their premium income, LIC recorded 9.35 per cent growth (18.30 per cent in previous year). While renewal premium accounted for 56.66 per cent (58.60 per cent in 2009-10) of the total premium received by the life insurers, first year premium contributed the remaining 43.34 per cent (41.40 per cent in 2009-10).

On the basis of total premium income, the market share of LIC declined marginally from 70.10 per cent in 2009-10 to 69.78 per cent in 2010-11. Accordingly, the market share of private insurers has gone up marginally from 29.90 per cent in 2009-10 to 30.22 per cent in 2010-11.

During 2010-11, life insurers issued 482 lakh new policies, out of which, LIC issued 370 lakh policies (76.91 per cent of total policies issued) and the private life insurers issued 111 lakh policies (23.09 per cent). While LIC suffered a decline of 4.70 per cent (8.21 per cent increase in 2009-10) in the number of new policies issued against the previous year, the private sector insurers reported a significant decline of 22.61 per cent (4.32 per cent decline in 2009-10) in the number of new policies issued.

The total capital of the life insurance companies as on 31st March, 2011 was Rs.23,662 crore. During 2010-11, an additional capital of Rs.2,642 crore was brought in by the industry. The incremental capital during 2010-11 was brought in by the private sector insurers as there was no addition in the capital of LIC, the public sector insurance company.

The life insurance industry paid higher gross benefits of Rs.1,42,524 crore in 2010-11 (₹95,820 crore in 2009-10) constituting 48.88 per cent of the gross premium underwritten (36.10 per cent in 2009-10). The benefits paid by the private insurers which stood at Rs.31,251 crore (Rs.16,658 crore in 2009-10), showed an increase of 87.60 per cent constituting 35.46 per cent of the premium underwritten (20.99 per cent in 2009-10).

During the financial year 2010-11, the life insurance industry reported net profit of Rs.2,657 crore as against net loss of Rs.989 crore in 2009-10. Out of the 23 life insurers in operations during 2010-11, twelve companies reported profits.

The non-life insurance industry underwrote total premium of Rs.42,576 crore in 2010-11 as against Rs.34,620 crore in 2009-10, registering an impressive growth of 22.98 per cent as against an increase of 14.06 per cent recorded in the previous year. The public sector insurers exhibited impressive growth in 2010-11 at 21.84 per cent; over the previous year's growth rate of 14.49 per cent. The private general insurers registered growth of 24.67 per cent, which is much higher than 13.44 per cent achieved during the previous year.

The Motor business continued to be the largest non-life insurance segment with a share of 42.70 per cent (43.46 per cent in 2009-10). It reported growth rate of 20.82 per cent (12.83 per cent in 2009-10). The premium collection in Health segment continued to surge ahead at Rs.9,944 crore in 2010-11 from Rs.7,311 crore of 2009-10, registering growth of 36.01 per cent. This resulted in increase in share of health segment to the total premium to 23.35 per cent in 2010-11 (21.12 per cent in 2009-10).

The growth in the Health segment far out-paced the growth rate achieved by the non-life industry as a whole.

The premium collection from Fire and Marine segments increased by 17.72 per cent and 16.20 per cent respectively in 2010-11 after remaining stagnant in 2009-10.

The total paid-up capital of non-life insurers as on 31st March, 2010 was ₹5,684 crore. During 2010-11, the non-life insurers added Rs.1,021 crore (all in the private sector) to their equity capital base. With this, the total paid up capital of the non-life

insurance sector has gone upto Rs.6,706 crore as on 31st March, 2011. The paid-up capital of the public sector companies remained unchanged at `550 crore in 2010-11. The non-life insurers underwrote 793.41 lakh policies in 2010-11 as against 674.88 lakh in 2009-10, reporting an increase of 17.56 per cent over 2009-10. Public sector insurers witnessed major turnaround in the number of policies issued. They reported 16.52 per cent increase in number of policies issued during 2010-11 compared to 2009-10 (negative growth at -3.84 per cent). Similarly, private sector insurers reported growth in number of policies issued at 19.44 per cent (9.86 per cent in 2009-10).

#### **4. EVOLUTION OF INSURANCE LAW IN INDIA**

In India, insurance has a deep-rooted history. It finds mention in the writings of Manu (Manusmriti ), Yagnavalkya (Dharmasastra) and Kautilya (Arthasastra). The writings talk in terms of pooling of resources that could be re-distributed in times of calamities such as fire, floods, epidemics and famine. This was probably a pre-cursor to modern day insurance. Ancient Indian history has preserved the earliest traces of insurance in the form of marine trade loans and carriers' contracts. Insurance in India has evolved over time heavily drawing from other countries, England in particular.

1818 saw the advent of life insurance business in India with the establishment of the Oriental Life Insurance Company in Calcutta. This Company however failed in 1834. In 1829, the Madras Equitable had begun transacting life insurance business in the Madras Presidency. 1870 saw the enactment of the British Insurance Act and in the last three decades of the nineteenth century, the Bombay Mutual (1871), Oriental (1874) and Empire of India (1897) were started in the Bombay Residency. This era, however, was dominated by foreign insurance offices which did good business in India, namely Albert Life Assurance, Royal Insurance, Liverpool and London Globe Insurance and the Indian offices were up for hard competition from the foreign companies.

In 1914, the Government of India started publishing returns of Insurance Companies in India. The Indian Life Assurance Companies Act, 1912 was the first statutory measure to regulate life business. In 1928, the Indian Insurance Companies Act was enacted to enable the Government to collect statistical information about both life and non-life business transacted in India by Indian and foreign insurers including provident insurance societies. In 1938, with a view to protecting the interest of the Insurance public, the earlier legislation was consolidated and amended by the Insurance Act, 1938 with comprehensive provisions for effective control over the activities of insurers.

The Insurance Amendment Act of 1950 abolished Principal Agencies. However, there were a large number of insurance companies and the level of competition was high.

There were also allegations of unfair trade practices. The Government of India, therefore, decided to nationalize insurance business.

An Ordinance was issued on 19<sup>th</sup> January, 1956 nationalizing the Life Insurance sector and Life Insurance Corporation came into existence in the same year. The LIC absorbed 154 Indian, 16 non-Indian insurers as also 75 provident societies—245 Indian and foreign insurers in all. The LIC had monopoly till the late 90s when the Insurance sector was reopened to the private sector.

The **history of general insurance dates** back to the Industrial Revolution in the west and the consequent growth of sea-faring trade and commerce in the 17<sup>th</sup> century. It came to India as a legacy of British occupation. General Insurance in India has its roots in the establishment of Triton Insurance Company Ltd., in the year 1850 in Calcutta by the British. In 1907, the Indian Mercantile Insurance Ltd was set up. This was the first company to transact all classes of general insurance business.

1957 saw the formation of the General Insurance Council, a wing of the Insurance Association of India. The General Insurance Council framed a code of conduct for ensuring fair conduct and sound business practices.

In 1968, the Insurance Act was amended to regulate investments and set minimum solvency margins. The Tariff Advisory Committee was also set up then.

In 1972 with the passing of the General Insurance Business (Nationalization) Act, general insurance business was nationalized with effect from 1<sup>st</sup> January, 1973. 107 insurers were amalgamated and grouped into four companies, namely National Insurance Company Ltd., the New India Assurance Company Ltd., the Oriental Insurance Company Ltd and the United India Insurance Company Ltd. The General Insurance Corporation of India was incorporated as a company in 1971 and it commenced business on January 1st 1973.

In December 2000, the GIC subsidiaries were restructured as independent insurance companies. At the same time, GIC was converted into a national re-insurer. In July 2002, Parliament passed a bill, delinking the four subsidiaries from GIC.

### **Legislative Regime**

The principal legislation regulating the insurance business in India is the Insurance Act of 1938. Some other existing legislations in the field are - the Life Insurance

Corporation (LIC) Act, 1956, the Marine Insurance Act, 1963, the General Insurance Business (GIB) (Nationalization) Act, 1972 and the Insurance Regulatory and Development Authority (IRDA) Act, 1999. The provisions of the Indian Contract Act, 1872 are applicable to the contracts of insurance, whether for life or non-life. Similarly, the provisions of the Companies Act, 1956 are applicable to the companies carrying on insurance business.

The subordinate legislation includes Insurance Rules, 1939 and the Ombudsman Rules, 1998 framed by the Central Government under Sec.114 of the principal Act as also 32 regulations made by the IRDA under Sec.114 A of the principal Act and Sec.26 of the IRDA Act 1999.

### **Background to recent legislative changes**

The announcement of the new industrial policy in 1991, envisaged the transition of the economy from a regulated to a liberalized and deregulated regime leading to the privatization of insurance sector to provide a better coverage to citizens and to augment the flow of long-term financial resources. This transition also meant that competition was bound to intensify in future with the entry of several private players in the field, particularly the foreign companies in joint venture with Indian partners. In order to prevent misuse by insurers of policyholders' and shareholders' funds and to ensure accountability, it was imperative to have in place an effective regulatory regime. Insurers being repositories of public trust, efficient regulation of their business became necessary to ensure that they remained worthy custodians of this trust. Further, insurance cash flows generated funds needed for investment in the social sector and for the development of infrastructure. Therefore, the regulation of insurance required a paradigm shift from just supervisory and monitoring role to development role so that the insurance business promoted economic growth.

### **Malhotra Committee Report**

In the backdrop of new industrial policy, the Government of India set up in 1993 a high-powered committee headed by Mr. R. N. Malhotra to examine the structure of the insurance industry, to assess its strength and weaknesses in terms of the objective of providing high quality services to the public and serving as an effective instrument for mobilization of financial resources for development, to review the then existing

structure of regulation and supervision of insurance sector and to suggest reforms for strengthening and modernizing regulatory system in tune with the changing economic environment.

The Malhotra Committee submitted its report in 1994. Some of the major recommendations made by it were as under:-

- (a) the establishment of an independent regulatory authority (akin to Securities and Exchange Board of India);
- (b) allowing private sector to enter the insurance field;
- (c) improvement of the commission structure for agents to make it effective instrument for procuring business specially rural, personal and non-obligatory lines of business;
- (d) insurance plans for economically backward sections, appointment of institutional agents;
- (e) setting up of an institution of professional surveyors/loss assessors;
- (f) functioning of Tariff Advisory Committee (TAC) as a separate statutory body;
- (g) investment on the pattern laid down in s.27;
- (h) marketing of life insurance to relatively weaker sections of the society and specified proportion of business in rural areas;
- (i) provisions for co-operative societies for transacting life insurance business in states;
- (j) the requirement of specified proportion of the general business as rural non-traditional business to be undertaken by the new entrants;
- (k) welfare oriented schemes of general insurance;
- (l) technology driven operation of General Insurance Corporation of India (GICI); GIC to exclusively function as a reinsurer and to cease to be the holding company;
- (m) introduction of unlinked pension plans by the insurance companies; and
- (n) restructuring of insurance industry.

#### **Milestones Of Insurance Regulations**

Year	Significant Regulatory Event
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1912	The Indian Life Insurance Company Act
1938	The Insurance Act: Comprehensive Act to regulate insurance business in India
1956	Nationalization of life insurance business in India
1972	Nationalization of general insurance business in India
1993	Setting up of Malhotra Committee
1994	Recommendations of Malhotra Committee
1995	Setting up of Mukherjee Committee
1996	Setting up of (interim) Insurance Regulatory Authority (IRA)
1997	Mukherjee Committee Report submitted but not made public
1997	The Government gives greater autonomy to LIC, GIC and its subsidiaries with regard to the restructuring of boards and flexibility in investment norms aimed at channeling funds to the infrastructure sector
1998	The cabinet decides to allow 40% foreign equity in private insurance companies-26% to foreign companies and 14% to NRI's, OCB's and FII's 1999. The Standing Committee headed by Murali Deora decides that foreign equity in private insurance should be limited to 26%. The IRA bill is renamed the Insurance Regulatory and Development Authority (IRDA) Bill.
1999	Cabinet clears IRDA Bill
2000	President gives Assent to the IRDA Bill



## 5. PRINCIPLES OF INSURANCE

Human life is exposed to many risks, which may result in heavy financial losses.

Insurance is one of the devices by which risks may be reduced or eliminated in exchange for premium.

“Insurance is a contract in which a sum of money is paid by the assured in consideration of the insurer's incurring the risk of paying larger sum upon a given contingency”.

In its legal aspects it is a contract whereby one person agrees to indemnify another against a loss which may happen or to pay a sum of money to him on the occurring of a particular event.

The seven principles of insurance are :-

### 1) Principle of Uberrimae fidei (Utmost Good Faith)

Principle of Uberrimae fidei (a Latin phrase), or in simple English words, the Principle of Utmost Good Faith, is a very basic and first primary principle of insurance. According to this principle, the insurance contract must be signed by both parties (i.e. insurer and insured) in an absolute good faith or belief or trust.

The person getting insured must willingly disclose and surrender to the insurer his complete true information regarding the subject matter of insurance. The insurer's liability gets void (i.e. legally revoked or cancelled) if any facts, about the subject matter of insurance are either omitted, hidden, falsified or presented in a wrong manner by the insured.

The principle of Uberrimae fidei applies to all types of insurance contracts.

**LIC v. G.M.CHannabsemma, (AIR 1991 SC 392)** - In a landmark decision the SC has held that the onus of proving that the policy holder has failed to disclose information on material facts lies on the corporation. In this case the assured who suffered from

tuberculosis and died a few months after the taking of the policy, the court observed that it is well settled that a contract of insurance is contract uberrimae fides, but the burden of proving that the insured had made false representation or suppressed the material facts is undoubtedly on the corporation.

**New India Insurance Company v. Raghava Reddy (AIR1961 AP 295)** - It was held that a policy cannot be avoided on the ground of misrepresentation unless the following are established by the insurer namely,

- a. The statement was inaccurate or false.
- b. Such statement was on a material matter or that the statement suppressed facts which it was material to disclose.
- c. The statement was fraudulently made
- d. The policy holder knew at the time of making the statement that it was false or that fact which ought to be disclosed has been suppressed.

**LIC v. Janaki Ammal (AIR 1968 Mad 324)** - it was held that if a period of two years has expired from the date on which the policy of life insurance was effected, that policy cannot be called in question by an insurer on the ground that a statement made in the proposal for insurance or on any report of a medical officer or referee, or a friend of the insured, or in any other document leading to the issue of the policy, was inaccurate or false.

## **2) Principle of Insurable Interest**

Insurable interest means - A relation between the insured and the event insured against, such that the occurrence of the event will cause substantial loss or injury of some kind to the insured.

The principle of insurable interest states that the person getting insured must have insurable interest in the object of insurance. A person has an insurable interest when the physical existence of the insured object gives him some gain but its non-existence

will give him a loss. In simple words, the insured person must suffer some financial loss by the damage of the insured object.

For example: - The owner of a taxicab has insurable interest in the taxicab because he is getting income from it. But, if he sells it, he will not have an insurable interest left in that taxicab.

From above example, we can conclude that, ownership plays a very crucial role in evaluating insurable interest. Every person has an insurable interest in his own life. A merchant has insurable interest in his business of trading. Similarly, a creditor has insurable interest in his debtor.

### **3) Principle of Indemnity**

Indemnity means security, protection and compensation given against damage, loss or injury.

According to the principle of indemnity, an insurance contract is signed only for getting protection against unpredicted financial losses arising due to future uncertainties. Insurance contract is not made for making profit else its sole purpose is to give compensation in case of any damage or loss.

In an insurance contract, the amount of compensations paid is in proportion to the incurred losses. The amount of compensations is limited to the amount assured or the actual losses, whichever is less. The compensation must not be less or more than the actual damage. Compensation is not paid if the specified loss does not happen due to a particular reason during a specific time period. Thus, insurance is only for giving protection against losses and not for making profit.

However, in case of life insurance, the principle of indemnity does not apply because the value of human life cannot be measured in terms of money.

### **4) Principle of Contribution**

Principle of Contribution is a corollary of the principle of indemnity. It applies to all contracts of indemnity, if the insured has taken out more than one policy on the same

subject matter. According to this principle, the insured can claim the compensation only to the extent of actual loss either from all insurers or from any one insurer. If one insurer pays full compensation then that insurer can claim proportionate claim from the other insurers.

For example: - If a house is insured with company X for Rs.5,000 and with company Y for Rs.10000 and the damage amounts to Rs.1200, company X will apparently be liable to contribute Rs.400 and company Y Rs.800.

So, if the insured claims full amount of compensation from one insurer then he cannot claim the same compensation from other insurer and make a profit. Secondly, if one insurance company pays the full compensation then it can recover the proportionate contribution from the other insurance company.

#### Essential conditions of Contribution -

- i. All the insurance must relate to the same subject-matter.
- ii. The policies concerned must all cover the same interest of the same insured.
- iii. The policies concerned must all cover the same peril which caused the loss.
- iv. The policies must have been in force and all of them should be enforceable at the time of loss.

#### **5) Principle of Subrogation**

Subrogation means substituting one creditor for another.

Principle of Subrogation is an extension and another corollary of the principle of indemnity. It also applies to all contracts of indemnity. It is generally applicable to contract of fire insurance and marine insurance.

According to the principle of subrogation, when the insured is compensated for the losses due to damage to his insured property, then the ownership right of such property shifts to the insurer.

This principle is applicable only when the damaged property has any value after the event causing the damage. The insurer can benefit out of subrogation rights only to the extent of the amount he has paid to the insured as compensation. The principle of subrogation prevents an insured who holds a policy of indemnity from recovering from the insurer the sum greater than the economic loss he has sustained.

For example :- Mr. John insures his house for \$ 1 million. The house is totally destroyed by the negligence of his neighbour Mr. Tom. The insurance company shall settle the claim of Mr. John for \$ 1 million. At the same time, it can file a law suit against Mr. Tom for \$ 1.2 million, the market value of the house. If insurance company wins the case and collects \$ 1.2 million from Mr. Tom, then the insurance company will retain \$ 1 million (which it has already paid to Mr. John) plus other expenses such as court fees. The balance amount, if any will be given to Mr. John, the insured.

Limitations to this doctrine are -

- Does not apply to life and personal accident policies;
- Insurer must pay before he claim subrogation;
- Assured must have been able to bring action.

For example - where two ships belonging to the same owner collided by fault of one of them, the insurers of the ship not at fault have been held not to be entitled to make any claim on the owner of the ship at fault, though the insurers of cargo owned by a third party can claim subrogation.

Difference between the doctrines of Contribution and Subrogation are -

- In contribution the purpose is to distribute the loss while in subrogation the loss is shifted from one person to another.
- Contribution is between insurers but subrogation is against third party.
- In contribution there must be more than one insurer but in subrogation there may be one insurer and one policy.

- In contribution the right of the insurer is claimed but in subrogation the right of the insured is claimed.

#### **6) Principle of Loss Minimization**

According to the Principle of Loss Minimization, insured must always try his level best to minimize the loss of his insured property, in case of uncertain events like a fire outbreak or blast, etc. The insured must take all possible measures and necessary steps to control and reduce the losses in such a scenario. The insured must not neglect and behave irresponsibly during such events just because the property is insured. Hence it is a responsibility of the insured to protect his insured property and avoid further losses.

For example :- Assume, Mr. John's house is set on fire due to an electric short-circuit. In this tragic scenario, Mr. John must try his level best to stop fire by all possible means, like first calling nearest fire department office, asking neighbours for emergency fire extinguishers, etc. He must not remain inactive and watch his house burning hoping, "Why should I worry? I've insured my house."

#### **7) Principle of Causa Proxima (Nearest Cause)**

Principle of Causa Proxima (a Latin phrase), or in simple English words, the Principle of Proximate (i.e. Nearest) Cause, means when a loss is caused by more than one causes, the proximate or the nearest or the closest cause should be taken into consideration to decide the liability of the insurer.

The principle states that to find out whether the insurer is liable for the loss or not, the proximate (closest) and not the remote (farthest) must be looked into.

For example: - A cargo ship's base was punctured due to rats and so sea water entered and cargo was damaged. Here there are two causes for the damage of the cargo ship - (i) The cargo ship getting punctured because of rats, and (ii) The sea water entering ship through puncture. The risk of sea water is insured but the first cause is not. The

nearest cause of damage is sea water which is insured and therefore the insurer must pay the compensation.

However, in case of life insurance, the principle of Causa Proxima does not apply. Whatever may be the reason of death (whether a natural death or an unnatural death) the insurer is liable to pay the amount of insurance.

## **6. LIST OF LEGISLATIONS REGULATING THE INSURANCE SECTOR IN INDIA**

**The Insurance sector in India is regulated by the following Acts:**

- 1) The Insurance Act, 1938
- 2) The Life Insurance Corporation Act, 1956
- 3) Marine Insurance Act, 1963
- 4) General Insurance Business (Nationalization) Act, 1972
- 5) Insurance Regulatory and Development Authority (IRDA) Act, 1999

**Regulations framed under the Insurance Regulatory and Development Authority (IRDA) Act, 1999 are:**

- 1) IRDA (Member of Insurance Advisory Committee) Regulations, 2000
- 2) IRDA (Appointment of Insurance Advisory Committee) Regulations, 2000
- 3) IRDA (The Insurance Advisory Committee) (Meeting) Regulations, 2000
- 4) IRDA (Appointed Actuary ) Regulations, 2000
- 5) IRDA (Actuarial Report and Abstract) Regulations, 2000
- 6) IRDA (Licensing of Insurance Agents) Regulations, 2000
- 7) IRDA (Assets, Liabilities and Solvency Margin of Insurers) Regulations, 2000
- 8) IRDA (General Insurance-Reinsurance) Regulations, 2000
- 9) IRDA (Registration of Indian Insurance Companies) Regulations, 2000
- 10) IRDA (Insurance Advertisements and Disclosure) Regulations, 2000
- 11) IRDA (Meetings) Regulations, 2000
- 12) IRDA (Investment) Regulations, 2000
- 13) IRDA (Conditions of Service of Officers and other Employees) Regulations, 2000
- 14) IRDA (Insurance Surveyors and Loss Assessors (Licensing, Professional Requirements and Code of Conduct)) Regulations, 2000
- 15) IRDA (Life Insurance - Reinsurance) Regulations, 2000
- 16) IRDA (Third Party Administrators - Health Services) Regulations, 2001



- 17) IRDA (Re-Insurance Advisory Committee) Regulations, 2001
- 18) IRDA (Preparation of Financial Statements and Auditor's Report of Insurance Companies) Regulations, 2002
- 19) IRDA (Protection of Policyholders' Interests) Regulations, 2002
- 20) IRDA (Insurance Brokers) Regulations, 2002
- 21) IRDA (Obligations of Insurers to Rural and Social Sectors) Regulations, 2002
- 22) IRDA (Licensing of Corporate Agents) Regulations, 2002
- 23) IRDA (Manner of Receipt of Premium) Regulations, 2002
- 24) IRDA (Distribution of Surplus) Regulations, 2002
- 25) IRDA (Qualification of Actuary) Regulations, 2004
- 26) IRDA (Micro-Insurance) Regulations, 2005
- 27) IRDA (Maternity Leave) Regulations, 2005
- 28) IRDA (Reinsurance Cessions) Notification
- 29) IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010
- 30) IRDA (Treatment of Discontinued Linked Insurance Policies) Regulations, 2010
- 31) IRDA (Scheme for Amalgamation and Transfer of General Insurance Business) Regulations 2011
- 32) IRDA (Issuance of Capital by Life Insurance Companies) Regulations, 2011

**The following guidelines are also applicable to Insurance companies:**

- 1) Guidelines on Insurance repositories and electronic issuance of insurance policies (IRDA/ ADMN/ GDL/ GLD/ 080/ 04/ 2011)
- 2) Guidelines on Outsourcing of Activities by Insurance Companies (IRDA/Life/CIR/GLD/013/02/2011)
- 3) Corporate Governance Guidelines for insurance companies. (IRDA/F&A/CIR/025/2009-10)
- 4) Grievance Redressal Guidelines (3/CA/GRV/YPB/10-11)

- 5) Public Disclosures by Insurers (IRDA/F&I/CIR/F&A/012/01/2010)
- 6) Guidelines on Periodic disclosures
- 7) Guidelines on licensing of corporate agents. (IRDA/CAGTS/CIR/LCE/039/03/2010)
- 8) Guidelines for opening of representative/liaison offices overseas by an Indian Insurance company registered with the IRDA. (IRDA/ 34/ For Office/ 08-09)
- 9) Anti Money Laundering (AML) guidelines. (30/IRDA/AML/CIR/AUG-09)
- 10) Guidelines on Advertisement, Promotion & Publicity of Insurance Companies and insurance intermediaries. (007/IRDA/ CIR/ADV/MAY-07)
- 11) Guidelines on determination of required solvency margin under General Insurance Business. (39/IRDA/ACTL/RSM-NL/2005-06)
- 12) Guidelines on “File and Use” Requirements for General Insurance Product ( 021/IRDA/F&U/SEP-06)
- 13) Guidelines on Insurance and Reinsurance of General Insurance Risks. (020/NL/IRDA/06)
- 14) Guidelines on ‘Health plus Life Combi Products’. (IRDA/ LIFE /GDL/MISC/087/12/2009)
- 15) Guidelines for Unit Linked Life Insurance Products. (032/IRDA/Actl/Dec-2005)
- 16) Guidelines on Group Insurance Policies. (015/IRDA/Life/Circular/GI Guidelines/2005)
- 17) Guidelines on estimation of IBNR claims provision under General Insurance Business. (11/IRDA/ACTL/IBNR/2005-06)
- 18) Guidelines for Marine Hull Insurance and Insurance of War risk Insurance of Marine Hulls.

## **Insurance amendment Bills pending**

### **1) The Insurance Laws (Amendment) Bill, 2008**

The Insurance Laws (Amendment) Bill, 2008, with a view to amend the Insurance Act 1938, the General Insurance Business (Nationalisation) Act, 1972 and the Insurance Regulatory and Development Authority Act, 1999 was introduced in the Rajya Sabha on the 22nd December, 2008. The Bill was introduced and referred to the Standing Committee on Finance for examination and report. The Standing Committee submitted its report to Parliament on 13<sup>th</sup> December, 2011.

The Union Cabinet on October 4, 2012 approved necessary official amendments in the Insurance Laws (Amendment), Bill 2008, pending in the Rajya Sabha, with such drafting and consequential changes, if any, in consultation with the Legislative Department

These amendments are aimed at removing archaic and redundant provisions in the legislations and incorporating certain provisions to provide Insurance Regulatory Development Authority (IRDA) with flexibility to discharge its functions effectively and efficiently. The overall objective is to further deepen the reform process which is already underway in the insurance sector. The official amendments will be moved in the Insurance Laws (Amendment) Bill, 2008 pending in the Rajya Sabha.

Based on the recommendations of the Standing Committee on Finance, the Cabinet has approved amendments containing the following :

- The foreign equity cap is proposed to be kept at 49 per cent as provided in the Insurance Laws (Amendment) Bill, 2008 as against the 26 percent. This is done in order to meet the growing capital requirement of insurance companies.
- Foreign reinsurers will be permitted to open branches only for reinsurance business in India and the provisions of Section 27E, which

prohibit an insurer to invest directly or indirectly outside India the funds of policyholder, would apply to such branches.

- The definition of "Foreign Company" for the purpose of Insurance and reinsurance would mean :a company or body established under a law of any country outside India and includes Lloyd`s established under the Lloyd`s Act, 1871 (United Kingdom).
- In order to encourage health insurance in India, the capital requirement for a health insurance company is now proposed at Rs.50 crores (instead of Rs.100 crores for General Insurance companies) with a view to reduce the entry barrier to a sector which is a priority sector in the insurance space.
- The definition of `health insurance business` has been revised to clearly stipulate that health insurance policies would cover sickness benefits on account of domestic as well as international travel.
- In the case of any insurer having a joint venture with a person having its principal place of business domiciled outside India, the Authority may withhold its registration, if it is satisfied that in the country in which such person has been debarred by law or practice of that country to carry on insurance business.
- Regarding the obligatory underwriting of third party risk on Motor Vehicles, a separate Motor Vehicle Insurance and Compensation Legislation is being proposed by the Government and the concerns of the Standing Committee regarding the obligatory third party insurance on motor vehicles will be taken care of.
- With a view to serve the interest of the policy holders better, the period during which a policy can be repudiated on any ground, including misstatement of facts etc. has been confined to three years from the commencement of the policy and thus no policy would be called in question on ground of misstatement after three years.
- The Public Sector General Insurance Companies and GIC will be permitted to raise capital from the market to meet future capital

requirements, provided that the Government's shareholding would not be allowed to come below 51 per cent at any point of time.

- The appointment of agents is proposed to be done by insurance companies subject to the agents meeting the qualifications, passing of examinations etc. as specified by IRDA. While the licensing of agents be no longer with IRDA, the Authority is empowered to take action against agents under Section 42(4) of the Insurance Act, 1938 which is essentially to protect the policy-holders interests. This provision will help expansion of agents' network throughout the country and better management and control of insurance companies over them. This will ultimately lead to better insurance penetration.
- Mechanism for appeal in case of orders of IRDA against intermediaries has been defined by proposing to amend clause (8) of section 33 of the Insurance Act 1938 to provide for any insurer or intermediary or insurance intermediary aggrieved by any order made under this section to prefer an appeal to the Securities Appellate Tribunal.
- Register of claims and policies to be maintained by insurers in any form including electronic.
- To specify fine on intermediaries and insurance companies for misconduct of intermediaries and to make appropriate provision in the legislation to effectively deter multilevel marketing of insurance products in the interest of policyholders, and to curtail the practice of mis-selling.
- In order to improve the functioning of surveyors and bring in greater transparency, certain modifications are made to provide for regulations on qualifications regarding appointment of surveyors and to strengthen the Institute of Indian Insurance Surveyors and Loss Assessors (IIISLA). The amendments proposed in the Bill seek to do away with the existing statutory prescriptions pertaining to licensing insurance surveyors and loss assessors etc. and leave these issues to be addressed by way of regulations.

- Further, although the Standing Committee suggested retaining licensing of agents and their commission structure in the Insurance Act 1938, however, keeping in view the interest of the policyholders and to effectively monitor the performance and activities of the agents, the commission structure and the Code of conduct for agents is to be specified by regulations by the IRDA and accordingly, ceilings on commission in the Act have been done away with and the insurance companies along with the agents are made liable for any violation of the regulations and stiff penalties have been provided for mis-selling, rebating and marketing of products through multi level marketing schemes.

## **2) The Life Insurance Corporation (Amendment) Bill, 2009**

The Life Insurance Corporation (Amendment) Bill, 2009 was introduced on July 31, 2009 in the Lok Sabha by the then Minister of Finance, Shri Pranab Mukherjee. The Bill was referred to the Department related Standing Committee on Finance (Chairperson: Dr Murli Manohar Joshi), which submitted its report on March 12, 2010.

The Bill seeks to amend the Life Insurance Corporation Act, 1956, which had nationalised the life insurance business by transferring all life insurance business to the Life Insurance Corporation of India (LIC). The Act also regulates the insurance business of LIC. It increases the paid up equity capital of LIC to Rs 100 crore from Rs 5 crore. The amount may be enhanced by the central government by notification. Instead of every two years, LIC shall be investigated by actuaries every year. The investigation shall be into the financial condition of LIC, including a valuation of the liabilities of LIC. The Bill amends the regulations with regard to utilisation of surplus from any investments undertaken by LIC. It allocates 90 percent or more of such surplus as the central government may approve for the life insurance policy holders of LIC. A prescribed percentage of the remaining surplus shall be credited to a separate account maintained by LIC. It shall be utilised for such purpose as specified by the

central government. The remainder shall be paid as dividend. The Act states that the central government guarantees the amounts assured by the policies of LIC. The Bill amends it by stating that the extent of the guarantee shall be determined by the central government.

## 7. LIFE INSURANCE

Life insurance is a contract that pledges payment of an amount to the person assured (or his nominee) on the happening of the event insured against. The contract is valid for payment of the insured amount during:

- The date of maturity, or
- Specified dates at periodic intervals, or
- Unfortunate death, if it occurs earlier.

Among other things, the contract also provides for the payment of premium periodically to the Corporation by the policyholder. Life insurance is universally acknowledged to be an institution, which eliminates 'risk', substituting certainty for uncertainty and comes to the timely aid of the family in the unfortunate event of death of the breadwinner. By and large, life insurance is civilization's partial solution to the problems caused by death. Life insurance, in short, is concerned with two hazards that stand across the life-path of every person:

1. That of dying prematurely, leaving a dependent family to fend for itself.
2. That of living till old age without visible means of support.

### Various types of life Insurance Policy in India:

- a. Endowment Policy
- b. Whole Life Policy
- c. Term Life Policy
- d. Money-back Policy
- e. Joint Life Policy
- f. Group Insurance Policy



g. Loan Cover Term Assurance Policy

h. Pension Plan or Annuities

i. Unit Linked Insurance Plan

### Important Types of Life Insurance products

#### 1) Term insurance

A term insurance product provides a fixed amount of money on death during the period of contract.

Term Insurance provides for life insurance protection for the selected term (period of years) only. In case the person (whose life is insured) dies during the term, the benefits are payable under the policy and in case of his survival till the end of the selected term the policy normally expires without any benefit becoming payable. Term insurance may be regarded as temporary insurance and is more nearly comparable with "Property & Casualty insurance" contracts than the other forms of Life insurance contracts.

#### 2) Whole life insurance

Whole life insurance product provides a fixed amount of money on death.

As the name suggests, the whole life insurance policies are intended to provide Life Insurance protection over one's lifetime. The essence of whole life insurance is that it provides for payment of the assured amount upon the insured's death regardless of when it occurs. Under these policies, the payment of the assured sum is a certainty in contrast to the term insurance contracts. Only the time of payment of the assured sum is an uncertainty.

Whole life policies can be either participating type or non-participating type. Participating type policies are those which are entitled to a share in the distributable surplus (profits) of the Life Insurance company, whereby the cash value of the policy can go up, with the announcement of bonus / dividend.

Non-participating policies have the same benefit throughout the life of the policy.

There can be the following types of whole life policies:

1. Ordinary Whole Life Insurance
  2. Limited Payment Whole Life Insurance
  3. Convertible Whole Life Insurance
- 3) Endowment Assurance**

Endowment Assurance product provided a fixed amount of money either on death during the period of contract or at the expiry of contract if life assured is alive.

These are the most commonly sold policies. These policies assure that the benefits under the policy will be paid on the death of the life insured during the selected term or on his survival to the end of the term. Hence the assured benefits are payable either on the date of maturity or on death of the life insured, if earlier.

Endowment policies assist in providing for the payment of a lump sum amount for a specific purpose, say, provision for retirement, meeting the needs of the child etc. The money required for the purpose will be built up whether the person is alive till that date or not. Like whole life insurance policies, endowment policies can also be of participating and non-participating types.

The Endowment insurance policies work in two ways, one they provide life insurance cover and on the other hand as a vehicle for saving. They are more expensive than Term policies and Whole life policies.

**4) Annuities**

An annuity product provides a series of monthly payments on stipulated dates provided that the life assured is alive on the stipulated dates.

An annuity is a series of periodic payments. An annuity contract is an insurance policy, under which the annuity provider (insurer) agrees to pay the purchaser of annuity (annuitant) a series of regular periodical payments for a fixed period or during someone's life time.

**Classification of Annuities: Annuities can be classified on the basis of**

- The number of lives covered
  - Single
  - Joint
- The beginning of the payment of annuity
  - Immediate annuity
  - Deferred annuity
- Method of premium payment
  - Single premium
  - Regular instalment

**5) Money back assurance product**

A money back assurance product provides not only fixed amounts which are payable on specified dates during the period of contract, but also the full amount of money assured on death during the period of contract.

**6) ULIP**

ULIP is a type of life insurance plan where the cash value of a policy varies according to the current NAV of the underlying investment assets. It allows protection and flexibility in investment. The premium paid is used to purchase units in investment assets chosen by the policyholder. ULIP has been one of the most popular forms of insurance products in India since its introduction. The product is closely regulated by IRDA through various guidelines issued on regular basis.

ULIP products are mainly available in life and pension variants. The popularity of ULIPs arises from the fact that they have a benefit of life insurance and also serves as an investment tool and the flexibility and transparency the product

provides. In a ULIP there are two parts in the premium a client pays, the first part of the premium goes into covering the life of the policy holder and the second part goes into investments. Almost all insurance companies give their customers a choice to select the investment mix. They can go for 100% equity funds or 100% debt funds or a mix of both. In an unlit linked insurance plan the customers are also given choice to switch from one fund to another. The returns from the insurance policy are directly related to the performance of the funds, which depends on the market movement.

#### **7) Universal Life Insurance**

The product category is a hybrid of ULIP and Traditional products. Like a ULIP product each contract has underlying funds and like a traditional product returns (bonus) are agreed as a part of the contract.

Under this type of policy (ULI), the policyholder pays an initial premium, which should not be less than a minimum for the given face value and the attained age of the Life to be Insured. From this premium payment, the mortality charge for the first period and the expenses charges will be deducted and the balance will be the policy's cash value. To this cash value a certain interest (depending upon the rate of interest prevailing in the market) will be credited at the end of the period.

## **8. GENERAL INSURANCE**

Insurance other than 'Life Insurance' falls under the category of General Insurance. General Insurance comprises of insurance of property against fire, burglary etc, personal insurance such as Accident and Health Insurance, and liability insurance which covers legal liabilities. There are also other covers such as Errors and Omissions insurance for professionals, credit insurance etc.

Non-life insurance companies have products that cover property against Fire and allied perils, flood storm and inundation, earthquake and so on. There are products that cover property against burglary, theft etc. The non-life companies also offer policies covering machinery against breakdown. There are policies that cover the hull of ships and so on. A Marine Cargo policy covers goods in transit including by sea, air and road. Further, insurance of motor vehicles against damages and theft forms a major chunk of non-life insurance business.

In respect of **insurance of property**, it is important that the cover is taken for the actual value of the property to avoid being imposed a penalty should there be a claim. Where a property is undervalued for the purposes of insurance, the insured will have to bear a rateable proportion of the loss. For instance if the value of a property is Rs.100 and it is insured for Rs.50/-, in the event of a loss to the extent of say Rs.50/-, the maximum claim amount payable would be Rs.25/- (50% of the loss being borne by the insured for underinsuring the property by 50% ). This concept is quite often not understood by most insured.

**Personal insurance** covers include policies for Accident, Health etc. Products offering Personal Accident cover are benefit policies. Health insurance covers offered by non-life insurers are mainly hospitalization covers either on reimbursement or cashless basis. The cashless service is offered through Third Party Administrators who have arrangements with various service providers, i.e., hospitals. The Third Party Administrators also provide service for reimbursement claims. Sometimes the insurers

themselves process reimbursement claims. Accident and health insurance policies are available for individuals as well as groups. A group could be a group of employees of an organization or holders of credit cards or deposit holders in a bank etc. Normally when a group is covered, insurers offer group discounts.

**Liability insurance** covers such as Motor Third Party Liability Insurance, Workmen's Compensation Policy etc offer cover against legal liabilities that may arise under the respective statutes— Motor Vehicles Act, The Workmen's Compensation Act etc. Some of the covers such as the foregoing (Motor Third Party and Workmen's Compensation policy) are compulsory by statute. Liability Insurance not compulsory by statute is also gaining popularity these days. Many industries insure against Public liability. There are liability covers available for Products as well.

There are general insurance products that are in the nature of package policies offering a combination of the covers mentioned above. For instance, there are package policies available for householders, shop keepers and also for professionals such as doctors, chartered accountants etc. Apart from offering standard covers, insurers also offer customized or tailor-made ones.

Suitable general Insurance covers are necessary for every family. It is important to protect one's property, which one might have acquired from one's hard earned income. A loss or damage to one's property can leave one shattered. Losses created by catastrophes such as the tsunami, earthquakes, cyclones etc have left many homeless and penniless. Such losses can be devastating but insurance could help mitigate them. Property can be covered, so also the people against Personal Accident. A Health Insurance policy can provide financial relief to a person undergoing medical treatment whether due to a disease or an injury.

Industries also need to protect themselves by obtaining insurance covers to protect their building, machinery, stocks etc. They need to cover their liabilities as well. Financiers insist on insurance. So, most industries or businesses that are financed by banks and other institutions do obtain covers. But are they obtaining the right covers? And are they insuring adequately are questions that need to be given some thought.

Also organizations or industries that are self-financed should ensure that they are protected by insurance.

Most general insurance covers are **annual contracts**. However, there are few products that are long-term. It is important for proposers to read and understand the terms and conditions of a policy before they enter into an insurance contract. The proposal form needs to be filled in completely and correctly by a proposer to ensure that the cover is adequate and the right one.

### **Health insurance**

The term 'Health Insurance' relates to a type of insurance that essentially covers the medical expenses. A health insurance policy like other policies is a contract between an insurer and an individual / group in which the insurer agrees to provide specified health insurance cover at a particular "premium" subject to terms and conditions specified in the policy.

A Health Insurance Policy would normally cover expenses reasonably and necessarily incurred under the following heads in respect of each insured person subject to overall ceiling of sum insured (for all claims during one policy period).

a) Room, Boarding expenses

b) Nursing expenses

c) Fees of surgeon, anaesthetist, physician, consultants, specialists

d) Anaesthesia, blood, oxygen, operation theatre charges, surgical appliances, medicines, drugs, diagnostic materials, X-ray, Dialysis, chemotherapy, Radio therapy, cost of pace maker, Artificial limbs, cost of organs and similar expenses.

The Sum Insured offered may be on an individual basis or on floater basis for the family as a whole. Insurance companies have tie-up arrangements with a network of hospitals in the country. If policyholder takes treatment in any of the net work hospitals, there is no need for the insured person to pay hospital bills. The Insurance Company, through its Third Party Administrator (TPA) will arrange direct payment to the Hospital. Expenses beyond sub limits prescribed by the policy or items not covered under the policy have to be settled by the insured direct to the Hospital. The insured can take treatment in a non-listed hospital in which case he has to pay the

bills first and then seek reimbursement from the Insurance Company. There will be no cashless facility applicable here.

### **Motor Insurance**

Motor insurance gives protection to the vehicle owner against - damages to his/her vehicle and pays for any Third Party liability determined as per law against the owner of the vehicle. Third Party insurance is a statutory requirement. The owner of the vehicle is legally liable for any injury or damage to third party life or property caused by or arising out of the use of the vehicle in a public place. Driving a motor vehicle without insurance in a public place is a punishable offence in terms of the Motor Vehicles Act, 1988.

There are two types of insurance policies that offer motor insurance cover -

- a) Liability Only Policy (statutory requirement)
- b) Package Policy (liability only policy + damage to owner's vehicle usually called O.D cover)

The damages to the vehicle due to the following perils are usually covered under the OD section of the Motor Insurance policy -

- a. Fire, explosion, self-ignition, lightning
- b. Burglary / theft
- c. Riot and strike
- d. Earthquake
- e. Flood, storm, cyclone, hurricane etc.
- f. Accidental external means
- g. Malicious act
- h. Terrorism acts
- i. While in transit by rail/road, inland waterways, etc.
- j. Landslide / rockslide

### **Property Insurance**

Insurance of property means insurance of buildings, machinery, stocks etc against Fire and Allied Perils, Burglary Risks and so on. Goods in transit via Sea, Air, Railways,



Roads and Courier can be insured under Marine Cargo Insurance. Hulls of ship and boats can be insured under Marine Hull Insurance. Further, there are specialized policies available such as Aviation Insurance Policy for insurance of planes and helicopters.

There are package or umbrella covers available which give, under a single document, a combination of covers. For instance there are covers such as Householders Policy, Shopkeepers Policy, Office Package policy etc. that, under one policy, seek to cover various physical assets including buildings, contents etc. Such policies, apart from seeking to cover property may also include certain personal lines or liability covers.

The most popular property insurance is the standard fire insurance policy. The fire insurance policy offers protection against any unforeseen loss or damage to/destruction of property due to fire or other perils covered under the policy. The different types of property that could be covered under a fire insurance policy are dwellings, offices, shops, hospitals, places of worship etc. and their contents; industrial/manufacturing risks and contents such as machinery, plants, equipment and accessories; goods including raw material, material in process, semi-finished goods, finished goods, packing materials etc. in factories, godowns and in the open; utilities located outside industrial/manufacturing risks; storage risks outside the compound of industrial risks; tank farms/gas holders located outside the compound of industrial risks etc.

A Burglary Insurance policy may be offered for a business enterprise or for a house. The policy covers property contained in the premises including stocks/goods owned or held in trust if specifically covered. It also covers cash, valuables, securities kept in a locked safe or cash box in locked steel cupboard.

All Risks Insurance generally offers cover for jewellery and/or portable equipment etc. This cover is generally offered selectively. The design of the policy may vary from company to company. It is important to note that an All Risks policy is not free from exclusions. So, the term "All Risks" doesn't mean that anything and everything is covered.

Marine Cargo Insurance covers transits by Water, Air, Road or Rail, Registered Post Parcel, Courier or a combination of two or more of these.

## **Travel Insurance**

Travel Insurance offers insurance protection while on travel. Travel Insurance protects the individual and/or family against travel related accidents, unexpected medical expenditure during travel, losses such as baggage loss, loss of passport etc and interruption or delays in flights or delayed arrival of baggage etc.

The following are covers that are generally provided under Travel Insurance though the combination may vary.

- Medical Expenses with or without cashless facility (most travel insurance products offer cashless facility)
- Personal Accident
- Loss of Baggage
- Delay in Baggage arrival
- Loss of Passport
- Travel Delay
- Repatriation
- Transportation of dead body etc.

## **Reinsurance**

Reinsurance is an insurance of insured risk where the insurer retains a part and cedes the balance of a risk to the reinsurer. This is done to facilitate a greater spread and reduce liability on the part of the insurer.

In other words, reinsurance is insurance that is purchased by an insurance company (reinsurer) from an insurer as a means of risk management, to transfer risk from the insurer to the reinsurer. The reinsurer and the insurer enter into a reinsurance agreement which details the conditions upon which the reinsurer would pay the insurer's losses (in terms of excess of loss or proportional to loss). The reinsurer is paid a reinsurance premium by the insurer, and the insurer issues thousands of policies. It is an independent contract between the reinsurer and the insurer and the original insurer is not a part of the contract.

For example, an insurer sells one thousand policies, each with 5 lakhs rupees policy limit. Theoretically, the insurer could lose 5 lakhs rupees on each policy - totaling to 5000 lakh rupees. It may be better to pass some potential risk to a reinsurance company (reinsurer) as this will minimize the insurer's risk.

Reinsurance primarily deals with catastrophe risks that are not predictable and cause the greatest exposure for the insurance company. A single insurer will not be able to bear the damaging financial impact of such losses. Therefore, an unbearable loss is broken down into bearable units by risk transfers. An insurance company limits the amount of risk it takes depending on the reinsurance terms along with factors like the worth of its assets, trend of inflation in the economy, price of the insurance products and the type of risk.

List of regulations/guidelines applicable for reinsurance sector in India are -

- IRDA (General Insurance-Reinsurance) Regulations, 2000
- IRDA (Life Insurance - Reinsurance) Regulations, 2000
- Guidelines on Insurance and Reinsurance of General Insurance Risks

### **Types of reinsurance**

There are mainly two types of reinsurance namely, facultative reinsurance and treaty reinsurance.

In facultative reinsurance, the primary insurer and reinsurer negotiate reinsurance contract for each risk separately. There is no compulsion for the primary insurer that it should purchase reinsurance on a policy that it does not wish to insure. Likewise, there is no obligation on the part of the reinsurer to reinsure proposals submitted to it. The reinsurer has the option of either accepting or declining a proposal. Facultative reinsurance may be either proportional or non-proportional.

In the treaty reinsurance there is a prior agreement between the primary insurer and reinsurer whereby the former reinsures certain lines of business in accordance with

the terms and conditions of the treaty and the latter agrees to accept the business that falls within the scope of the agreement. An obligation is imposed that all policies that come within the terms of the treaty are required to be placed with the reinsurer. Similarly, the reinsurer cannot decline risks that come within the terms of the treaty.

## **9. MICRO INSURANCE**

The term Micro-insurance is used to refer to insurance to the low-income people, and is different from insurance in general as it is a low value product (involving modest premium and benefit package) which requires different design and distribution strategies such as premium based on community risk rating (as opposed to individual risk rating), active involvement of an intermediate agency representing the target community and so forth.

Micro-insurance is a key element in the financial services package for people at the bottom of the pyramid. The poor face more risks than the well-off, but more importantly they are more vulnerable to the same risk. Poverty is not just a state of deprivation but has latent vulnerability. Micro insurance therefore provides greater economic and psychological security to the poor as it reduces exposure to multiple risks and cushions the impact of a disaster.

The draft paper prepared by the Consultative Group to Assist the Poor (CGAP), working group on micro-insurance defines micro-insurance as “the protection of low income households against specific perils in exchange for premium payments proportionate to the likelihood and cost of the risk involved.”

Micro-insurance is recognized as a useful tool in economic development. As many low-income people do not have access to adequate risk-management tools, they are vulnerable to fall back into poverty in times of hardship, for example when the breadwinner of the family dies, or when high hospital bills force families to take out loans with high interest rates. Furthermore, micro-insurance makes it possible for people to take more risks. When farmers are insured against a bad harvest (resulting from drought), they are in a better position to grow crops which give high yields in good years, and bad yields in year of drought. Without the insurance however, they will be inclined to do the opposite; since they have to safeguard a minimal level of income for themselves and their families, crops will be grown which are more drought resistant, but which have a much lower yield in good weather conditions.

## **IRDA Regulations - IRDA (Micro-Insurance) Regulations' 2005**

India is the first country to introduce regulation for micro insurance and it is one of the few developing countries in the world that has a special micro-insurance regulation to regulate the suppliers of micro-insurance products through its special agency for insurance regulation - the Insurance Regulatory and Development Authority.

The Insurance Regulatory Development Authority notified the IRDA (Micro-Insurance) Regulations on 10<sup>th</sup>, November, 2005 with the following key features to promote and regulate micro-insurance products. The regulation focuses on the direction, design and delivery of the products:

- A tie-up between life and non life insurance players for integration of product to address risks to the individual, his family, his assets and habitat;
- Monitoring product design through “file and use”;
- Breakthrough in distribution channels with inclusion of NGOs, SHGs, MFIs and PACS to provide micro-insurance, with appropriate compensation for their services;
- Enlarged servicing activities entrusted to micro-insurance agents;
- Issue of policy documents in simple vernacular language.

A Micro-Insurance Policy means an Insurance Policy sold under a Plan which has been specifically approved by the IRDA as a Micro-Insurance product.

Further, the IRDA has allowed insurers to issue policies with a maximum cover of Rs. 50,000 for general and life insurance under these regulations. The regulations have also eased the norms for entry of agents relating to training and pre-recruitment examination.

The Key features of the Regulations to regulate and promote Micro-Insurance are:

### 1. Insurance Coverage to Family as a Unit

The regulations extend insurance coverage to the family as a unit as against the system of insurance coverage to individual lives. 'Family' means a unit comprising of

husband, wife, dependant parents and a maximum of three children. Provided that where the number of children is more than three, for construing the composition of family, the first three children shall be included. An insurer may, within the parameters laid down for the composition of the family, define ‘family’ as per the requirements of the individual or group.

## 2. Micro Insurance Product

Micro-Insurance product includes a general micro-insurance product or life insurance product, proposal form and all marketing materials in respect thereof. The regulation provides definitions of micro-insurance products covering life and general insurance.

‘General micro-insurance product’ means any health insurance contract, any contract covering the belongings such as hut, livestock or tools or instruments or any personal accident contract, either on individual or group basis, as per terms stated in Schedule I to the Micro Insurance Regulations, the extract of which is given below:

Item	Type of Cover	Min. Amount of Cover	Max. Amount of Cover	Term of Cover Min.	Term of Cover Max.	Min. Age at entry	Max. age at entry
1	Dwelling & contents, or livestock or Tools or implements or other named assets / or Crop insurance against all perils	Rs. 5,000 Per asset/ cover	Rs. 30,000 Per asset/ cover	1 year	1 year	NA	NA
2	Health Insurance Contract (Ind.)	Rs. 5,000	Rs. 30,000	1 year	1 year	Insurers' discretion	
3	Health Insurance Contract (family) (Option to avail limit for Individual/ Float on family)	Rs. 10,000	Rs. 30,000	1 year	1 year	Insurers' discretion	
4	Personal Accident (per life/ earning member of family)	Rs. 10,000	Rs. 50,000	1 year	1 year	5	70

*Note:- The minimum number of members comprising a group shall be at least twenty for group insurance.*

“Life micro insurance product” means any term insurance contract with or without return of premium, and endowment insurance contract or health insurance contract, with or without an accident benefit rider, either on individual or group basis, as per

terms stated in Schedule-II to the Micro Insurance regulations, the extract of which is

Type of Cover	Minimum Amount of Cover	Maximum Amount of Cover	Term of Cover Min.	Term of Cover Max.	Minimum age at entry	Maximum age at entry
Term Insurance with or without return of premium	Rs. 5,000	Rs. 50,000	5 year	15 years	18	60
Endowment Insurance	Rs. 5,000	Rs. 30,000	5 year	15 years	18	60
Health Insurance Contract (Individual)	Rs 5,000	Rs. 30,000	1 year	7 year	Insurer's discretion	Insurer's discretion
Health Insurance Contract (Family)	Rs 10,000	Rs 30,000	1 year	7 year	Insurer's discretion	Insurer's discretion
Accident Benefit as rider	Rs. 10,000	Rs. 50,000	5 year	15 years	18	60

Notes: 1. Group insurance products may be renewable on a yearly basis  
 2. The minimum number of members comprising a group shall be at least twenty for group insurance.

given below:

A micro-insurance product may be distributed through various intermediaries viz. insurance brokers, insurance agents, corporate agents, and Micro-insurance (MI) agents. Categories other than MI agents may sell micro-insurance but they do not benefit from the concessions allowed for the MI agents. However, a micro-insurance agent shall not distribute any product other than a micro insurance product.

### 3. Tie-Up between Life Insurer and Non-Life Insurer

An insurer carrying on life insurance business can offer life micro-insurance products as well as general micro-insurance products. So where an insurer carrying on life insurance business offers any general micro-insurance product, he can have a tie-up with the insurer carrying on general insurance business for this purpose, and subject to the provisions of Section 64 VB of the Insurance Act (governing the remittance of the premium amount to the insurance company), the premium attributable to the general micro-insurance product may be collected from the prospect (proposer) by the insurer carrying on life insurance business, either directly or through any of the distributing entities of micro-insurance products. In case of any claim regarding



general micro-insurance, the insurer carrying on life business or the agent should forward the claim to the insurer carrying on general insurance business. The same arrangement will be applicable for life claims faced by non-life vendors of a micro-insurance product. In both cases, the respective primary first insurer should render all assistance in claim settlement by coordinating with his opposite member.

#### 4. Micro-Insurance Agents

The regulation creates a new intermediary called the micro-insurance agent. Apart from an insurance agent or corporate agent or broker licensed under the Insurance Act, 1938, micro-insurance products can also be distributed through micro-insurance agents.

A micro-insurance agent means a (i) a Non-Governmental Organization (NGO), or (ii) a Self Help Group (SHG), or (iii) a Micro Finance Institution (MFI) who is appointed by an insurer to act as a micro-insurance agent for distribution of micro-insurance products. Non-Government Organization (NGO) means a non-profit organization registered as a society under any law, and has been working at least for three years with marginalized groups, with proven track record, clearly stated aims and objectives, transparency and accountability as outlined in its memorandum, rules, by-laws or regulations as the case may be, and demonstrates involvement of committed people. NGO will also include any non-profit organisation registered non-profit objective under the appropriate law (including companies registered under Section 25 of the Companies Act, 1956.

Self Help Group (SHG) means any informal group consisting of ten to twenty or more persons and has been working at least for three years with marginalized groups, with proven track record, clearly stated aims and objectives, transparency and accountability as outlined in its memorandum, rules, by-laws or regulations, as the case may be, and demonstrates involvement of committed people.

Micro-Finance Institution (MFI) means any institution or entity or association registered under any law for the registration of societies or co-operative societies, as the case may be, inter-alia, for sanctioning loan/finance to its members.

A micro-insurance agent should not work for more than one insurer carrying on life insurance business and one insurer carrying on general insurance business.

#### Appointment of Micro-insurance Agent and Deed of Agreement

A deed of agreement has to be entered into between the insurer and the micro-insurance agent.

A deed of agreement clearly specifying the terms and conditions of appointment, including the duties and responsibilities of both the micro-insurance agent and the insurer, should be executed. Either of the parties should have the option to terminate the agreement after giving a notice of three months by the party intending to terminate the agreement. Such notice however, will not be required if the termination is on account of misconduct, indiscipline or fraud committed by the micro-insurance agent.

Every insurer should impart at least twenty-five hours of training at its expense and through its designated officer(s) in the local vernacular language to all micro-insurance agents and their specified persons in the areas of insurance selling, policy holder servicing and claims administration.

#### Functions of Micro-Insurance Agent

The regulation provides for Micro-Insurance agents to perform the following functions which shall be authorized through the deed of agreement:

- (a) Collection of proposal forms
- (b) Collection of self declaration from the proposer that he/she is in good health.
- (c) Collection and remittance of premium
- (d) Distribution of policy documents
- (e) Maintenance of registers of all those insured and their dependants covered under the micro insurance scheme, together with details of name, sex, age, address, nominees and thumb impression/signature of the policyholder.
- (f) Assistance in the settlement of claims
- (g) Ensuring nomination to be made by the insured
- (h) Any policy administration service

A Micro insurance agent should employ specified persons with the prior approval of the insurer for the purpose of discharging all or any of the functions given above.

#### Code of Conduct

Every Micro insurance agent and person employed by him should abide by the Code of Conduct laid down in Regulation 8 of the IRDA (Licensing of Insurance Agents) Regulations 2000 and the relevant provisions of the IRDA (Insurance Advertisements and Disclosure) Regulations, 2000.

#### Remuneration/ Commission to Agents

A micro-insurance agent may be paid remuneration for all the functions rendered by him including commission by an insurer and that the same should not exceed the limits mentioned below -

- For Life Insurance Business: Single Premium policies - Ten per-cent of the single premium
- Non-single premium policies - Twenty per cent of the premium for all the years of the premium paying term
- Non-Life Insurance Business: Fifteen per cent of the premium.

For group insurance products, the insurer may decide the commission subject to the overall limits specified by IRDA.

#### 5. File and Use Method

Every insurer will be subject to the file and use procedure for filing of micro insurance products with the authority. Every micro insurance product so cleared by the authority should prominently carry the caption “Micro Insurance Product”.

Generally in the file and use procedure, every insurer who wants to introduce a new product, should submit an application to the authority in the prescribed form. If the authority has not sought for any additional information, then the insurer can

commence selling the product in the market, as set out in the application after expiry of the prescribed period from the date of filing the product with the authority.

#### 6. Issuance of Micro-Insurance Policy contracts in Vernacular Language

Every insurer should issue insurance contracts to the individual micro-insurance policy holders in the vernacular language which is simple and easily understandable by the policy holders. If it is not practically possible to issue the policy in the vernacular language, then a detailed write up about the policy should be given in the vernacular language.

#### 7. Obligations to Rural and Social Sectors

All micro insurance policies should be mainly for the purpose of fulfillment of social obligations by an insurer in consonance with the provisions of the Insurance Act and regulations made thereunder. Where a micro-insurance policy is issued in a rural area and falls under the definition of social sector, such policy should be reckoned for both rural and social obligations separately.

Apart from the above, every insurer should ensure that all transactions in connection with the micro-insurance business are in accordance with the provisions of the Insurance Act, the Insurance Regulatory and Development Act, 1999 and the rules and regulations made thereunder.

## 10. OVERVIEW OF INSURANCE LAWS IN INDIA

Some of the important provisions of certain Acts and Regulations have been discussed hereunder.

### The Insurance Act, 1938

It is the first comprehensive piece of insurance legislation in India governing both life and non life branches of insurance.

The Act applies to all type of insurance business-life, fire, marine etc. done by companies incorporated in India or elsewhere.

According to Sec. 2(C) of the Act, there is prohibition of transaction of insurance business by certain persons. Save as hereinafter providing, no person shall after the commencement of the Insurance Act, begin to carry on any class of insurance business in India shall after the expiry of one year, from such commencement, continue to carry on any such business unless he is -

- a) A public company or
- b) A society registered under the Cooperative Societies Act, 1912 or under any other law for the time being in force in any state relating to cooperative societies or,
- c) A body corporate incorporated under the law of any country outside India not being of the nature of a private company.

### **Requirement as to capital**

According to Sec.6, no insurer carrying on the business of life insurance, general insurance or insurance in India on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, should be registered unless he has:

- i. A paid-up equity capital or rupees one hundred crores, in case of a person carrying on the business of life insurance or general insurance; or
- ii. A paid-up equity capital of rupees two hundred crores, in case of a person carrying on exclusively the business as a reinsurer:

Provided that in determining the paid-up equity capital specified under clause (i) or clause (ii) the deposit to be made under section 7 and any preliminary expenses incurred in the formation and registration of the company should be excluded:

Provided further that an insurer carrying on business of life insurance, general insurance or Re-insurance in India before the commencement of the Insurance Regulatory and Development Authority Act, 1999 and who is required to be registered under the Act, should have a paid-up equity capital in accordance with clause (i) and (ii), as the case may be, within six months of the commencement of that Act.

### **Deposit**

According to Section-7, every insurer should, in respect of the insurance business carried on by him in India, deposit and keep deposited with the Reserve Bank of India, in one of the offices in India of the bank for and on behalf of the Central Government, the amount hereafter specified, either in cash or in approved securities, estimated at the market values of the securities on the day of deposit or partly in cash and partly in approved securities so estimated.

- i. In the case of the life insurance business, a sum equivalent to one percent of his total gross premium written in India in any financial year commencing after the 31st day of March, 2000 not exceeding rupees ten crores;
- ii. In the case of general insurance business, a sum equivalent to three percent of his total gross premium written in India, in any financial year commencing after the 31st day of March 2000, not exceeding rupees ten crores;
- iii. In the case of Re-insurance business a sum of rupees twenty crores.

Provided that, where the business done or to be done is marine insurance only and relates exclusively to country craft or its cargo or both, the amount to be deposited under this sub-section will be one hundred thousand rupees only.

### **Registration**

Registration of insurance companies is covered under Sec.3 of the Act and the Insurance Regulatory and Development Authority (Registration of Indian Insurance Companies) Regulations, 2000.

An applicant desiring to carry on insurance business in India should make a requisition for registration application in Form IRDA/R1. An applicant, whose requisition for registration application has been accepted by the Authority, should make an application in Form IRDA/R2 for grant of a certificate of registration.

Every application for registration should be accompanied by -

- a) A certified copy of the memorandum and articles of association.
- b) Names, addresses and occupation of directors.
- c) A statement of the class or classes of insurance business to be done.
- d) Principal place of business or domicile outside India.
- e) A certified copy of the published prospectus.
- f) Documentary proof evidencing the making of deposit required under section 7 of the Act.
- g) 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.
- h) Evidence of having rupees two hundred crore or more paid up equity share capital, in case the application for grant of certificate is for re-insurance business.
- i) 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 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 Act have been satisfied.
- j) A statement indicating the distinctive numbers of shares issued to each promoter and shareholder in respect of share capital of the applicant.

- k) 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 Act, calculated is in accordance with regulation 11 does not exceed twenty six percent.
- l) 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 by an actuary in case of life insurance business that such rates, advantages, terms and conditions are workable and sound.
- m) 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.
- n) The original receipt showing payment of the fee of Rupees fifty thousand for a class of business.
- o) A certificate from a practising chartered accountant or a practising 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.
- p) Any other information required by the Authority during the processing of the application for registration.

If, on the receipt of an application for registration and after making such inquiry as he deems fit, the authority is satisfied that:

- a) The financial condition and the general character of management of the applicant are sound;
- b) The volume of business likely to be available to, and the capital structure and earning prospects of, the applicant will be adequate;
- c) The interests of the general public will be served.

Then the authority may register the applicant as an insurer and grant him certificate of registration in Form IRDA/R3.



An applicant granted a certificate of registration should commence insurance business for which he has been authorised within 12 months of the date of registration.

The authority shall withhold registration shall, or cancel a registration already made if any requirement is not satisfied or in so far as it relates to a particular class of insurance business as the case may be:

- a) If the insurer fails to comply with the provisions Section - 7 or of deposits, or
- b) If the insurer is in liquidation or is adjudged an insolvent, or
- c) If the business has been transferred to any other insured, or
- d) If the whole of the deposit made in respect of insurance business has been returned to the insurer under Section - 9, or
- e) When clause 9 of Section - 2 related to insurer's definition ceased of, cancelled or suspended, or
- f) Defaults in complying with any rules.
- g) Carries on any business other than insurance business or any prescribed business.

### **Submission of returns**

The audited accounts and balance sheet and actuarial report and abstract and four copies there of shall be furnished as returns to the authority in the case of the accounts and balance sheet and the actuarial report within six months and in the case of the abstract within nine months from the end of the period to which they refer. If the principal place is outside India, the period of submission may be extended by three months.

Of the four copies so furnished one shall be signed in the case of company by the Chairman and two directors and by the principal officer of the Company and, if the company has a managing director or managing agent, by the director or managing agent in the case of a firm by two partners of the firm, and, in the case of an insurer being an individual, by the insurer himself and one shall be signed by the auditor who made the audit or the actuary who made the valuation, as the case may be.

Where the insurer's principal place of business or domicile is outside India, he should forward to the authority, along with the documents, certified statement showing the

total assets and liabilities of the insurer at the close of the period covered by the said documents.

### **Commission and Rebates**

No person should pay or contract to pay any remuneration or reward whether by way of commission or otherwise for soliciting or procuring insurance business in India to any person except an insurance agent or a principal, chief or special agent.

No insurance agent shall be paid or contract to be paid by way of commission or as remuneration in any form an amount exceeding, in the case of life insurance business, 40% of the first year's premium payable on any policy or policies effected through him and 5% of a renewal premium, payable on such a policy, or, in the case of business of any other class, 15% of the premium.

No person should pay or contract to pay to an insurance agent, and no insurance agent should receive or contract to receive by way of commission or remuneration in any form in respect of any policy of life insurance issued in India by an insurer and effected through an insurance agent, an amount exceeding:

- a) Where the policy grants an immediate annuity or a deferred annuity in consideration of a single premium, or where only one premium is payable on the policy, 2% of that premium,
- b) Where the policy grants a deferred annuity in consideration of more than one premium, 7½% of the first year's premium, and 2% of each renewal premium, payable on the policy, and
- c) In any other case, 35% of the first year's premium, 7½% of the second and third year's renewal premium, and thereafter 5% of each renewal premium payable on the policy:

Provided that in a case referred to in clause (c), an insurer, during the first 10 years of his business, may pay to an insurance agent, and an insurance agent may receive from such an insurer, 40% of the first year's premium payable on the policy.

### **Investments**

Every insurer shall invest and at all times keep invested assets equivalent to not less than the sum of:

a) The amount of his liabilities to holders of life insurance policies in India of account of matured claims, and

b) The amount required to meet the liability on policies of life insurance maturing for payment in India, less:

(i) The amount of premiums which have fallen due to the insurer on such policies but have not been paid and the days of grace for payment of which have not expired, and

(ii) Any amount due to the insurer for loans granted on and within the surrender values of policies of life insurance maturing for payment in India issued by him or by an insurer which business he has acquired and in respect of which he has assumed liability.

In the following manner, namely, twenty-five percent of the said sum in Government securities, a further sum equal to not less than twenty five percent of the said sum in Government securities or other approved securities and the balance in any of the approved investments specified in sub-section (1) of section 27A or, subject to the limitations, conditions and restrictions specified in sub-section (2) of that section, in any other investment.

No insurer should invest or keep invested any part of his controlled fund otherwise than in any of the following approved investment namely:

a) Approved securities;

b) Securities;

c) Debentures or other securities of Municipality in a State;

d) Debentures or other securities issued by a body constituted by any Central Act or Act of State Legislature;

e) First Mortgage on immovable property under any housing or building scheme;

f) Debentures secured on first charge on immovable property;

g) First debentures secured by a floating charge on all its assets;

h) Preference shares of any company;

i) Shares of any company which have been guaranteed to any by any company;

j) First Mortgagee immovable property;

- k) Immovable property situated in India or in any other country; loans on life interests, or on policies of life insurance within their surrender value;
- l) Loans on life interests or on policies of life insurance within their surrender values;
- m) Life interests;
- n) Fixed deposits with banks;
- o) Debentures of, or shares in cooperative societies;
- p) Such other investments as the authority may declare to be approved investment.

### **Prohibition of loan**

No insurer should grant loans or temporary advances either on hypothecation of property or on personal security or otherwise, except loans on life policies issued by him with their surrender value, to any director, manager, managing agent, actuary, auditor, or officer of the insurer if the company or where the insurer is a firm, to any partner therein, or to any other company or firm in which any such director, manager, managing agent, actuary, officer or partner holds such position.

### **Insurance Regulatory and Development Authority Act, 1999**

The Insurance Regulatory and Development Authority Act, 1999 also known as the IRDA Act was enacted to establish a statutory body to regulate, promote and ensure orderly growth of insurance and reinsurance business as also to protect the interest of policy holders.

The IRDA Act provides for the composition of the Authority, terms and conditions of the Chairperson and members including their tenure and removal; duties, powers and functions of the Authority including regulation making power and delegation of powers; establishment of Insurance Advisory Committee; Insurance Regulatory and Development Authority Fund and powers of the Central Government to make rules, to issue directions to the Authority and to supersede the same, if it is necessary; and other miscellaneous provisions. The First Schedule appended to the IRDA Act listed out several amendments to the Insurance Act, 1938. The Second Schedule to the IRDA Act inserted Sec.30A in the Life Insurance Corporation Act, 1956 whereby the exclusive privilege of LIC to carry on life insurance business in India was to cease. The

Third Schedule to the IRDA Act inserted a similar provision, Sec.24A in the General Insurance Business (Nationalization) Act, 1972 whereby the exclusive privilege of the GIC and its subsidiaries in relation to general insurance business ceased.

### **IRDA (Preparation of Financial Statements and Auditor's Report of Insurance Companies) Regulations, 2002**

An insurer carrying on life insurance business should comply with the requirements of Schedule A. In case of general insurance business, the insurer should comply with the requirements of Schedule B. Further the report of the auditors on financial statements of insurers should conform to the requirements of Schedule C.

#### **Schedule A - Preparation of financial statements by life insurers**

1. Part I deals with accounting principles for preparation of financial statements.
  - a. Every Balance Sheet, Revenue Account [Policyholders' Account], Receipts and Payments Account [Cash Flow statement] and Profit and Loss Account [Shareholders' Account] of an insurer should be in conformity with the Accounting Standards (AS) issued by the ICAI, to the extent applicable to insurers carrying on life insurance business. There is an exception to this - Accounting Standard 3 (AS 3) - Cash Flow Statement should be prepared only under the Direct Method and Accounting Standard 17 (AS 17) - Segment Reporting will apply to all insurers irrespective of the requirements regarding listing and turnover mentioned therein.
  - b. Premium should be recognised as income when due.
  - c. Acquisition costs, if any, should be expensed in the period in which they are incurred. (Acquisition costs are those costs that vary with and are primarily related to the acquisition of new and renewal insurance contracts).
  - d. The ultimate cost of claims should comprise the policy benefit amount and specific claims settlement costs, wherever applicable.

- e. The estimation of liability against life policies should be determined by the appointed actuary of the insurer pursuant to his annual investigation of the life insurance business. Actuarial assumptions are to be disclosed by way of notes to the account.
- f. Procedure to determine value of investments - The value of investments should be determined in the following manner:
  - i. The value of investment property should be determined at historical cost, subject to revaluation at least once in every three years.
  - ii. Debt securities, including government securities and redeemable preference shares, should be considered as “held to maturity” securities and should be measured at historical cost subject to amortisation.
  - iii. Listed equity securities and derivative instruments that are traded in active markets should be measured at fair value on the balance sheet date. . For the purpose of calculation of fair value, the lowest of the last quoted closing price at the stock exchanges where the securities are listed should be taken.
  - iv. Unlisted equity securities and derivative instruments and listed equity securities and derivative instruments that are not regularly traded in active markets shall be measured at historical cost.
- g. The insurer should assess the quality of its loan assets and shall provide for impairment. Loans should be measured at historical cost.
- h. A separate set of financial statements, for each segregated fund of the linked businesses, should be annexed. Segregated funds represent funds maintained in accounts to meet specific investment objectives of policyholders who bear the investment risk.
- i. The funds for future appropriation shall be presented separately. The funds for future appropriation represent all funds, the allocation of which, either to the policyholders or to the shareholders, has not been determined by the end of the financial year.

2. Part II deals with disclosures forming part of financial statements. The following information should be disclosed by way of notes to the balance sheet:
- a. Contingent liabilities
  - b. Actuarial assumptions for valuation of liabilities for life policies in force.
  - c. Encumbrances to assets of the company in and outside India.
  - d. Commitments made and outstanding for Loans, Investments and Fixed Assets.
  - e. Basis of amortisation of debt securities.
  - f. Claims settled and remaining unpaid for a period of more than six months as on the balance sheet date.
  - g. Value of contracts in relation to investments, for:
    - (a) Purchases where deliveries are pending;
    - (b) Sales where payments are overdue.
  - h. Operating expenses relating to insurance business: basis of allocation of expenditure to various segments of business.
  - i. Computation of managerial remuneration.
  - j. Historical costs of those investments valued on fair value basis.
  - k. Basis of revaluation of investment property.
  - l. Investments made in accordance with any statutory requirement should be disclosed separately together with its amount, nature, security and any special rights in and outside India;
  - m. Segregation into performing/ non performing investments for purpose of income recognition as per the directions, if any, issued by the Authority;
  - n. Assets to the extent required to be deposited under local laws or otherwise encumbered in or outside India;
  - o. Percentage of business sector-wise;
  - p. A summary of financial statements for the last five years, in the manner as may be prescribed by the Authority;
  - q. Bases of allocation of investments and income thereon between Policyholders' Account and Shareholders' Account;
  - r. Accounting Ratios as be prescribed by the Authority

3. Part III deals with general instructions for preparation of financial statements.
  - a. Corresponding amounts for the immediately preceding financial year for all items shown in the Balance Sheet, Revenue Account, Profit and Loss Account and Receipts and Payments Account should be given.
  - b. Expressions like provision, reserve, capital reserve and liability have been explained.
  - c. Provision should be made for damages under lawsuits where the management is of the opinion that the award may go against the insurer.
  - d. Extent of risk retained and re-insured should be separately disclosed.
4. Part IV deals with the contents of the management report to be attached to the financial statements.
5. Part V deals with the format of preparing financial statements.

#### Schedule C - Auditor's report

The report of the auditors on the financial statements should cover the following matters:

1. Information and explanation on the following aspects -
  - a. Whether proper books of account have been maintained by the insurer?
  - b. Whether proper returns, audited or unaudited, from branches and other offices have been received and whether they were adequate for the purpose of audit?
  - c. Whether the Balance sheet, Revenue account , Profit and Loss account and the Receipts and Payments Account dealt with by the report are in agreement with the books of account and returns?
  - d. Whether the actuarial valuation of liabilities is duly certified by the appointed actuary including to the effect that the assumptions for such valuation are in accordance with the guidelines and norms?
2. Opinion on the following matters -



- a. Whether the balance sheet gives a true and fair view of the insurer's affairs as at the end of the financial year/period?
  - b. Whether the revenue account gives a true and fair view of the surplus or the deficit for the financial year/period?
  - c. Whether the profit and loss account gives a true and fair view of the profit or loss for the financial year/period?
  - d. Whether the receipts and payments account gives a true and fair view of the receipts and payments for the financial year/period?
  - e. Preparation of financial statements as per the prescribed Acts and Regulations.
  - f. Valuation of investments.
  - g. The accounting policies selected by the insurer are appropriate and are in compliance with the applicable accounting standards and with the accounting principles.
3. Certify on the following aspects:
- a. They have reviewed the management report and there is no apparent mistake or material inconsistencies with the financial statements.
  - b. The insurer has complied with the terms and conditions of the registration stipulated by the Authority.
4. Certificate signed by the auditors certifying that -
- a. They have verified the cash balances and the securities relating to the insurer's loans, reversions and life interests (in the case of life insurers) and investments.
  - b. To what extent, if any, they have verified the investments and transactions relating to any trusts undertaken by the insurer as trustee.
  - c. No part of the assets of the policyholders' funds has been directly or indirectly applied in contravention of the provisions of the Insurance Act, 1938 (4 of 1938) relating to the application and investments of the policyholders' funds.

## 11. CONCURRENT AUDIT OF INSURANCE COMPANIES

Insurance firms have to undertake an investment-specific concurrent audit as mandated by the Insurance Regulatory and Development Authority (IRDA) vide Circular 023/2009-10 dated 4<sup>th</sup> August, 2009. Till then there was no uniformity in the audit process. Some companies had both internal and external auditors. Others did not have an internal auditor. This move tried to bring about a uniform audit process. Generally statutory audit looks only into the financial transactions of a firm whereas the concurrent audit system is quite exhaustive and will look into the investments and risk management issues as well. It will also ensure that firms comply with IRDA'S investment guidelines.

### **What is Concurrent Audit?**

Concurrent audit is an audit of an organization or its unit on an ongoing basis. All the transactions are checked almost on a real-time basis. This helps the organization to rectify its mistake immediately without any delay. The management thereby gets an assurance that the Financial Statements are reliable and the operations of the organization are in line with the policy of the management. It is essential to have Concurrent audit in every organization where the transactions are high in numbers such as Banks, Insurance, Brokers, Mutual Funds, Depository Participants or any industry with large transactions.

### **Investment Risk Management Systems and Process Audit**

- i. A Chartered Accountants' firm which is not the Statutory or Internal or Concurrent Auditor of the concerned Insurer should certify that the Investment Risk Management Systems and Processes as per the 'Technical Guide on Review and certification of Investment Risk Management Systems and Process of Insurance Companies' issued by the Institute of Chartered Accountants of India are in place.

- ii. From 1<sup>st</sup> August 2009 onwards, every insurance company that requires IRDA registration, should file a report certified by a Chartered Accountant firm, describing the level of preparedness of the applicant company to comply with the various systems related requirements as given in the 'Technical Guide on Review and certification of Investment Risk Management Systems and Process of Insurance Companies'. It should also indicate the further actions that need to be taken by the company.
- iii. All insurers should ensure that their systems and processes are audited at least once in three years by a Chartered Accountant firm. While doing this audit, the present internal or concurrent or statutory auditor will not be eligible for appointment as the Risk Management Auditor. The insurer should also file a certificate issued by the Chartered Accountant as provided in the technical guide.

#### **Internal and Concurrent Audit of Investment Transactions of Insurance companies**

- i. All insurers having Assets under Management (AUM) of not more than Rupees Thousand Crores should have its investment functions audited on a quarterly basis through internal audit. It should be either internal resources or through firms of Chartered Accountants.
- ii. Insurers with Assets under Management (AUM) of over Rupees Thousand Crores should appoint a firm of Chartered Accountants as Concurrent Auditor to have its investment transactions and related systems audited on a concurrent basis.
- iii. The first such audit should start from 1<sup>st</sup> September 2009.
- iv. The minimum scope for internal or concurrent audit should be as detailed in the 'Technical Guide on Review and certification of Investment Risk Management Systems and Process of Insurance Companies' issued by ICAI for

both Life and Non-Life insurers. The insurer can include additional cope depending upon their needs for control systems.

- v. The Internal or Concurrent audit is supposed to cover hundred percent of transactions of all funds as per the periodicity prescribed.
- vi. If the Internal Audit is carried in house, then the internal audit report should be signed by the Head Internal Audit.
- vii. If an insurer who is covered under the AUM clause of over Rupees Thousand Crores should continue to have the Investment functions concurrently audited, even if the Assets under Management (AUM) falls below Rupees Thousand Crores subsequently.
- viii. The status of implementation of Investment Risk Management Systems and issues of non-compliance pointed out in the Risk Management Report should be reported by the Internal or Concurrent Auditor as per Item No.5 of the 'Technical Guide on Review and certification of Investment Risk Management Systems and Process of Insurance Companies'. The report should then be filed with the IRDA as per the format provided in Annexure - I of the Circular dated 4<sup>th</sup> August 2009.
- ix. The audit report for a quarter issued by the Internal or Concurrent Auditor should be placed before the Audit Committee of the Insurer's Board during the next succeeding quarter. This report should be submitted with its feedback on implementation with the IRDA as an annexure to Form 4. (Form 4 is the Quarterly Compliance Certificate with regard to Exposure and Other Norms specified under IRDA Investment 4<sup>th</sup> Amendment Regulations, 2008.)

#### **Norms for appointment of Audit Firms**

- i. The Chartered Accountant Firm should be registered with the Institute of Chartered Accountants of India.

- ii. The audit firm should have at least 4 years experience in conducting reviews of Risk Management Systems and Process of either Banks or Mutual Funds or Insurance companies or should have conducted Investment inspection of insurance companies on behalf of IRDA.
- iii. The auditor should not hold more than 2 audits of Internal, Concurrent and Risk Management Systems Audit at the time of appointment as an auditor for certifying Investment Risk Management Systems and Process. Thus the audit firm can only hold a maximum of three audits i.e. Investment Risk Management Systems and Process Audit, Internal Audit, Concurrent Audit, apart from statutory audits.
- iv. The insurer should obtain a declaration to this effect from the Chartered Accountant firm and should be filed with the IRDA within 7 days of such appointment.
- v. The auditor should not have been prohibited or debarred by any regulating agency including IRDA, RBI, SEBI, ICAI etc.
- vi. The auditor appointed for certifying the Investment Risk Management Systems and Process should not have conducted the following assignment for the same insurer proposing to be appointed as Systems Auditor for a period of two years immediately preceding his appointment.
  - a. Statutory Audit
  - b. Any internal audit
  - c. Any concurrent audit
  - d. Any consulting assignment, whether or not related to audit functions.

## **12. CORPORATE GOVERNANCE GUIDELINES FOR INSURANCE COMPANIES**

IRDA has evolved Corporate Governance Guidelines for Insurance companies. This has become effective from the financial year commencing April 01, 2010. These guidelines have been evolved to ensure fairer corporate governance in public and private insurance companies to safeguard the investments of lakhs of policy holders and stakeholders as most of the insurance companies are not listed and could be open to risks.

The objective of the guidelines is to ensure that the structure, responsibilities and functions of Board of Directors and the senior management of the company fully recognize the expectations of all stakeholders as well as those of the regulator. The structure should take steps required to adopt sound and prudent principles and practices for the governance of the company and should have the ability to quickly address issues of non-compliance or weak oversight and controls. These guidelines therefore amplify on certain issues which are covered in the Insurance Act, 1938 and the regulations framed there under and include measures which are additionally considered essential by IRDA for adoption by insurance companies.

### **Role of the Board**

Board of Directors is referred to as Board and team of personnel of the insurance company with core management functions is referred to as Senior Management in the Guidelines.

- A minimum lock-in period of 5 years has been prescribed from the date of certificate of commencement of business of an insurer for the promoters of the insurance company and no transfer of shares of the promoters would be permitted within this period.
- The ceiling of FDI in Indian Insurance Companies is presently capped at 26%.

- Board of Directors of the company should ensure that the registration of shares is in compliance with the provisions of the Insurance Act, 1938 and IRDA (Registration of Insurance companies) Regulations, 2000.
- Board of Directors should review key transactions, disclosures of any conflicts of interest to manage and control such issues under the following:
  - Sections 297 & 299, of the Companies Act 1956;
  - AS 18 of ICAI also casts obligations for the disclosures of transactions involving related parties.
  - Auditors, Actuaries, Directors and Senior Managers shall not simultaneously hold two positions in the insurance company that could lead to conflict or potential conflicts of interest.
- The Board should also ensure ongoing compliance with the statutory requirements on capital structure while planning or examining options for capital augmentation of the Company.

#### **Governance structure**

Presently, the private insurers in India are yet to go public and get their shares listed on the stock exchanges while the composition of the Boards of the Public Sector Undertakings in the insurance sector is also laid down by the Government of India.

#### **Composition of Board of Directors**

- The insurance companies should have a properly constituted Board.
- The size of the Board in addition to being compliant with legal requirements (where applicable), should be consistent with scale, nature and complexity of business.
- Shareholders of the companies should elect or nominate Directors from various areas of financial and management expertise such as accountancy, banking, insurance, finance, economics etc., with qualifications and experience that is appropriate to the company.

- The Board of Directors and Senior Management should understand the operational structure of the insurer and have a general understanding of the lines of business and products of the insurer, more particularly as the insurer grows in size and complexity.
- If the insurance company has a non-executive chairman, at least one third of the directors should be independent and in other cases at least 50% of the directors should be independent.
- If the company is unlisted, then it should have a minimum of 2 independent directors.
- In case, the number of independent directors falls below the minimum requirement, then the vacancy should be filled up within a maximum period of 180 days under intimation to the Authority.
- Not more than one member of a family or a close relative or an associate (partner, director etc) should be on the Board of an Insurer.

### **Role and responsibilities of the Board**

Annexure 1 of the guidelines describes the responsibilities of the Board of Directors.

### **Appointment of Committees - Mandatory**

- ✓ Audit Committee;
- ✓ Investment Committee;
- ✓ Risk Management: Policyholder Protection Committee; and
- ✓ Asset Liability Management Committee (in case of life insurers).

### **Appointment of Committees - Optional**

- Remuneration Committee
- Nomination Committee
- Ethics Committee



## Senior Management

The Chief Executive Officer of the company and other key functionaries are responsible for the operations and day to day management of the company in line with the directions of the Board and the Committees set up by the Board. Section 34A of the Insurance Act, 1938 requires prior approval of the IRDA for appointment, re-appointment or termination of the Chief Executive Officer and the Whole Time Directors. In case the CEO resigns, the IRDA should be kept informed of such resignation and the reasons there for. The Insurance Act also prohibits the CEO of a life insurance company from being a Director on the Board of any other Indian insurance company/bank/investment company.

As the appointment of the CEO is made with the prior approval of the IRDA the Board should take proactive steps to decide on the continuance of CEO well in time before the expiry of his tenure or to identify the new incumbent. The IRDA requires the proposal to be submitted with the approval of the Board at least a month before the completion of the tenure of the incumbent. As a corollary, the Board should also have practices in place for succession planning for the key senior functionaries through a process of proper identification and nurturing of individuals for taking over senior management positions.

## Annual filing of compliance status

All insurers should file a report on status of compliance with the corporate governance guidelines on an annual basis. This report should be filed within 90 days from the end of the financial year i.e. before 30<sup>th</sup> June. The report should be filed in the format given below -

CG guidelines	Compliance	Present Scenario	Gaps, if any, in Compliance	Proposed Action for addressing the gaps
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<b>5.0 Governance Structure - Board of Directors</b>				
<b>5.1 Composition</b>				
<b>1. Properly Constituted Board</b>				
a. total number of Directors in the Board				
b. total number of Independent Directors				
c. Total number of non-executive Director				
<b>2. Independent Directors:</b>				
(i) <b><u>Independent Directors:</u></b> The Board of Directors is required to have a significant number of “Independent Directors” <i>(as laid down in the Listing Agreement)</i> .				
(ii) <b><u>Whether</u></b> more than one member of a family or a close relative as defined in the Companies Act or an associate (partner, director etc) are on the Board of an Insurer as ‘Independent director’				
(iii) <b><u>Whether</u></b> the total number				

of Independent Directors are two or more				
<b>3. In case Chairman is Non-executive Chairman,</b>  (i) CEO should be Whole-time Director of the Board				
<b>5.2 The Role and responsibility of the Board and their Discharge</b>				
(i) As stipulated in Annexure I of the CG guidelines				
(ii) Whether the Board has set clear & transparent policy framework for translation of corporate objectives.				
(iii) Transparent Information flow from the senior management through well documented agenda notes and appropriate systems to serve as effective monitoring arrangements.				
(iv) Establish strategies and policies define ethical individual behavior and corporate behaviour and ongoing, effective processes that ensure adherence to these				

strategies and policies				
<p><b>(v) Areas for Board to focus: (in Nutshell)</b></p> <p>a. Overall direction of business</p> <p>b. Compliance with IRDA regulations, Insurance Act &amp; other statutory requirements.</p> <p>c. Addressing conflict of interest</p> <p>d. Fair treatment of policyholders &amp; employees.</p> <p>e. Sharing &amp; disclosure of information</p> <p>f. Develop corporate culture &amp; adherence to ethical standards</p>				
<p><b>5.3 Fit and Proper Criteria:</b></p>				
<p>(i) Whether there is a system to obtain an annual declaration from the Directors that the information provided in the declaration at the time of appointment/ reappointment has not undergone any change subsequently and the changes, if any, are apprised by the concerned</p>				

Director to the Board				
(ii) Whether the Directors are also required to enter into a Deed of Covenant as per the format prescribed by the Authority with the insurance company.				
<b>5.4 Conduct of Meetings:</b>				
(i) System that would make Co. Secretary responsible for proper conduct of the Board meetings and with adequate time to deliberate on the major issues in detail.				
(ii) System of familiarizing new Directors with the background of the company's governance philosophy, duties and responsibilities of the Directors etc.				
(iii) Disclosure Requirements:				
a. The company must disclose the following in their annual report, interalia, Number of the meetings held of the Board of Directors and				

<p>Committees mandated under the guidelines, in the financial year.</p>				
<p>b. Details of the composition of the Board of Directors and Committees mandated, setting out name, qualification, field of specialization, status of directorship held etc.</p>				
<p>c. Number of the meetings attended by the Directors and the members of the committee.</p>				
<p>d. Detail of the remuneration paid, if any to the independent director.</p>				
<p>(iv) All the mandatory committees should meet at least four times in a year and not more than four months shall elapse between two successive meetings. The quorum shall be either two members or one third of the members of the committee</p>				

<p>whichever is greater, but in case an independent director is mandated to be in any of the Committees, he/she should be necessarily present to form the quorum.</p>				
<p><b>6. Control Functions:</b></p>				
<p>(i) Whether the Board has laid down the policy framework on various control systems as enumerated at point no. 6 of CG guidelines.</p>				
<p>(ii) Appropriate and effective group-wide risk control systems in addition to the systems for insurers within a Group. Boards of the insurers to lay down the requisite policy framework.</p>				
<p><b>7. Committees</b></p>				
<p><b>a. Mandatory Committees</b></p>				
<p>1) Audit Committee 2) Investment Committee 3) Risk Management Committee 4) Policyholders Protection Committee 5) Asset Liability</p>				

Management (only in case of life insurers) (Optional if the company has Risk Management Committee)				
<b>b. Optional Committees</b>				
1. Nomination Committee 2. Remuneration Committee 3. Ethics Committee				
c. Status of Compliance with the guidelines in respect of optional committees				
<b>d. Composition of the Committee</b>				
(i) <b>Audit Committee :</b> a. whether the chairman of the audit committee is an independent Director strong financial analysis background b. Appointment of statutory auditors to be recommended by the Audit committee and appointed at the shareholders meeting.				
(ii) <b>Investment Committee :</b> a. Whether Committee consists of at least two				



<p>Non Executive Directors, the Chief Executive Officer, Chief of Finance, Chief of Investment Division and wherever an appointed actuary is employed, the Appointed Actuary</p> <p>b. Whether any new appointment or removal of any member of the Investment Committee is also be approved by the Board and there is a system to communicate to the Authority within 30 days.</p> <p>c. Whether the IC meets at least once in a quarter and looks into various aspects of investment operations and monitors them.</p> <p>d. Whether the IC furnishes a report to the Board on the performance of Investments at least on a quarterly basis and provides analysis of its Investment portfolio and</p>				
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<p>on the future outlook to enable the Board to look at possible policy changes and strategies.</p>				
<p><b>(iii) Policyholder Protection Committee:</b> whether the minutes of the committee are placed as an agenda item to the Board.</p>				
<p><b>e. Quorum / Frequency of the Meeting</b></p> <p>(i) All the mandatory committees should meet at least four times in a year and not more than four months shall elapse between two successive meetings.</p> <p>(ii) The quorum shall be either two members or one third of the members of the committee whichever is greater, but in case an independent director is mandated to be in any of the Committees, he/she should be necessarily present to form the quorum.</p>				

<b>8. Disclosures</b>				
<b>(i) Disclosure Requirements</b>				
<ul style="list-style-type: none"> <li>a. Basis, methods and assumptions on which the information</li> <li>b. Quantitative &amp; qualitative information on the insurer's financial &amp; operating ratios viz., incurred claim, commission &amp; expenses ratios.</li> <li>c. Actual solvency margin details vis-à-vis the required margin.</li> <li>d. Financial performance including growth rate and current financial position of the insurer.</li> <li>e. Description of the risk management architecture.</li> <li>f. Details of number of claims intimated, disposed of &amp; pending with details of duration.</li> </ul>				

<p>g. All pecuniary relationships or transactions of non-executive directors.</p> <p>h. Elements of remuneration package of individual directors</p>				
<p><b>(ii) Disclosure in the annual accounts :</b></p>				
<p>a. Summarized under major groups.</p> <p>b. All related party transactions.</p> <p>c. Matters which have material impact on the financial position.</p>				
<p><b>9. Outsourcing:</b></p>				
<p>a. All outsourcing arrangements of the company shall have the approval of the Board.</p> <p>b. Whether Every outsourcing contract contains explicit safeguards regarding confidentiality of data and all outputs from the data, continuing ownership of the data</p>				

<p>with the insurer and orderly handing over of the data and all related software programmes on termination of the outsourcing arrangement</p> <p>c. The arrangement shall be for a defined duration of not more than 3 years and should have provision for premature cancellation without attracting penalties</p>				
<p><b>10. Relationship with Stakeholders:</b></p>				
<p>The disclosures stipulations must address the following:</p> <p>a. financial statements accurately and fairly represent the financial condition of the insurer; and</p> <p>b. The insurer is running its business soundly and will be viable over the long term.</p> <p>In particular, the disclosure</p>				

requirements of the participating policyholders and the unit linked policyholders must be duly addressed.				
<b>11. Reporting IRDA</b>				
❖ Whether the Insurer has appointed Company Secretary as Compliance officer whose duty will be to monitor continuing compliance with these guidelines.				
<b>12. Whistle Blowing Policy</b>				
❖ Whether the Insurer has put in place a “Whistle Blowing Policy”				

### 13. INSURANCE INTERMEDIARIES

Many types of insurance are complex, especially those created for individuals or businesses that have substantial, varied, and highly specific needs for risk coverage. Because both buyers (potential policyholders) and sellers (insurers) enter these complex product transactions lacking complete information, they require an intermediary who can do “matchmaking.” In the broadest terms, the intermediary must help connect the policyholder to the right coverage (at the right price) and also give risk information about the policyholder to the insurer that will help the insurer create the correct coverage and price the policy accurately. In the face of the overwhelming array of options, even the most experienced risk managers look to commercial insurance brokers or independent agents for assistance.

An Insurance Intermediary means individual agents, corporate agents including banks and brokers -they intermediate between the customer and the insurance company. Insurance Intermediary also includes Surveyors and Third Party Administrators but these intermediaries are not involved in procurement of business. Surveyors assess losses on behalf of the insurance companies. Third Party Administrators provide services related to health insurance for insurance companies.

The intermediaries’ basic role is to survey the market, match clients with insurers that offer coverage with the various qualities the buyer needs - in skill, capacity, risk appetite, and financial strength - and then help the buyer select among competing offers from insurers. Price is an important consideration, but only one of several criteria considered and it is not always the overriding one. In addition, intermediaries also provide insurers with more accurate information about the risk level represented by the policyholder. An insurer is able to use this risk information in order to create the kind and amount of coverage the buyer needs, and to arrive at an actuarially valid quote the buyer can consider.

In most insurance transactions there is usually an intermediary - an insurance agent (individual or corporate) or an insurance broker. Insurance intermediaries serve as a bridge between consumers (seeking to buy insurance policies) and insurance companies (seeking to sell those policies).

Insurance brokers are licensed by the IRDA and governed by the Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002. Individual insurance agents and corporate agents are also licensed by the IRDA and governed by the Insurance Regulatory and Development Authority (licensing of Individual Insurance Agents) Regulations, 2000 and the Insurance Regulatory and Development Authority (Licensing of Corporate Agents) Regulations, 2002, respectively. These Regulations lay down the Code of Conduct for the respective intermediaries.



## 14. ACTUARIES

An actuary is a business professional who deals with the financial impact of risk and uncertainty. Actuaries provide expert assessments of financial security systems, with a focus on their complexity, their mathematics, and their mechanisms.

Actuaries mathematically evaluate the likelihood of events and quantify the contingent outcomes in order to minimize losses, both emotional and financial, associated with uncertain undesirable events. Since many events, such as death, cannot be avoided, it is helpful to take measures to minimize their financial impact when they occur. These risks can affect both sides of the balance sheet, and require asset management, liability management, and valuation skills. Analytical skills, business knowledge and understanding of human behaviour and the vagaries of information systems are required to design and manage programs that control risk.

### **Responsibilities**

Actuaries use skills in mathematics, economics, computer science, finance, probability and statistics, and business to help businesses assess the risk of certain events occurring and to formulate policies that minimize the cost of that risk. For this reason, actuaries are essential to the insurance and reinsurance industry, either as staff employees or as consultants. Actuaries assemble and analyze data to estimate the probability and likely cost of the occurrence of an event such as death, sickness, injury, disability, or loss of property. Actuaries also address financial questions, including those involving the level of pension contributions required to produce a certain retirement income and the way in which a company should invest resources to maximize its return on investments in light of potential risk. Using their broad knowledge, actuaries help design and price insurance policies, pension plans, and other financial strategies in a manner which will help ensure that the plans are maintained on a sound financial basis.

The Actuaries work in wide range of areas which include the following: · Life insurance, Pension funds, General insurance, Health insurance, Investments, Government, Academics, Risk Management, Reinsurance companies, Consultants.

### **Actuary in India**

In India, a Fellow member of The Institute of Actuaries of India is referred to as an Actuary. The Fellow membership is achieved by passing examinations at various stages and fulfilling other conditions as required from time-to-time. The examinations can be taken after being enrolled as a Student member. For enrolment as a Student member, one needs to be at least a graduate with a major subject in mathematical sciences such as mathematics, statistics, econometrics, engineering and actuarial sciences.

Actuaries in India are regulated by the Insurance Regulatory and Development Authority (Appointed Actuary) Regulations, 2000.

A person will be eligible to be appointed as an appointed actuary for an insurer, if he or she is -

- (i) ordinarily resident in India;
- (ii) a Fellow Member of the Actuarial Society of India;
- (iii) an employee of the life insurer, in case of life insurance business;
- (iv) an employee of the insurer or a consulting actuary, in case of general insurance business;
- (iv) a person who has not committed any breach of professional conduct;
- (v) a person against whom no disciplinary action by the Actuarial Society of India or any other actuarial professional body is pending;
- (vi) not an appointed actuary of another insurer;
- (vii) a person who possesses a Certificate of Practice issued by the Actuarial Society of India; and
- (viii) not over the age of seventy years.

### **Powers of Appointed Actuary**

The appointed actuary will be entitled, --

- (a) to attend all meetings of the management including the directors of the insurer;
- (b) to speak and discuss on any matter, at such meeting,--
  - i. that relates to the actuarial advice given to the directors;
  - ii. that may affect the solvency of the insurer;
  - iii. that may affect the ability of the insurer to meet the reasonable expectations of policyholders; or
  - iv. on which actuarial advice is necessary;
- (c) to attend,--
  - i. any meeting of the shareholders or the policyholders of the insurer;or
  - ii. any other meeting of members of the insurer at which the insurer's annual accounts or financial statements are to be considered or at which any matter in connection with the appointed actuary's duties is discussed.

### **Duties and obligations**

The duties and obligations of an appointed actuary of an insurer:-

- (a) rendering actuarial advice to the management of the insurer, in particular in the areas of product design and pricing, insurance contract wording, investments and reinsurance;
- (b) ensuring the solvency of the insurer at all times;
- (c) complying with the provisions of the section 64V of the Act in regard to certification of the assets and liabilities that have been valued in the manner required under the said section;
- (d) complying with the provisions of the section 64 VA of the Act in regard to maintenance of required solvency margin in the manner required under the said section;
- (e) drawing the attention of management of the insurer, to any matter on which he or she thinks that action is required to be taken by the insurer to avoid--
  - (i) any contravention of the Act; or

- (ii) prejudice to the interests of policyholders;
- (f) complying with the Authority's directions from time to time;
- (g) in the case of the insurer carrying on life insurance business, --
  - (i) to certify the actuarial report and abstract and other returns as required under section 13 of the Act;
  - (ii) to comply with the provisions of section 21 of the Act in regard to further information required by the Authority;
  - (iii) to comply with the provisions of section 40-B of the Act in regard to the bases of premium;
  - (iv) to comply with the provisions of the section 112 of the Act in regard to recommendation of interim bonus or bonuses payable by life insurer to policyholders whose policies mature for payment by reason of death or otherwise during the inter-valuation period;
  - (v) to ensure that all the requisite records have been made available to him or her for the purpose of conducting actuarial valuation of liabilities and assets of the insurer;
  - (vi) to ensure that the premium rates of the insurance products are fair;
  - (vii) to certify that the mathematical reserves have been determined taking into account the guidance notes issued by the Actuarial Society of India and any directions given by the Authority;
  - (viii) to ensure that the policyholders' reasonable expectations have been considered in the matter of valuation of liabilities and distribution of surplus to the participating policyholders who are entitled for a share of surplus;
  - (ix) to submit the actuarial advice in the interests of the insurance industry and the policyholders;
- (h) in the case of the insurer carrying on general insurance business to ensure, --
  - (i) that the rates are fair in respect of those contracts that are governed by the insurer's in-house tariff;
  - (ii) that the actuarial principles, in the determination of liabilities, have been used in the calculation of reserves for incurred but not reported claims (IBNR) and other reserves where actuarial advice is sought by the Authority;

(i) informing the Authority in writing of his or her opinion, within a reasonable time, whether,--

- (i) the insurer has contravened the Act or any other Acts;
- (ii) the contravention is of such a nature that it may affect significantly the interests of the owners or beneficiaries of policies issued by the insurer;
- (iii) the directors of the insurer have failed to take such action as is reasonably necessary to enable him to exercise his or her duties and obligations under this regulation; or
- (iv) an officer or employee of the insurer has engaged in conduct calculated to prevent him or her exercising his or her duties and obligations under this regulation.

## **15. REGULATORY AUTHORITIES**

### **1. Insurance Regulatory Development Authority (IRDA)**

On the recommendations of the Malhotra Committee, the Government of India constituted an interim Insurance Regulatory Authority and later enacted the Insurance Regulatory and Development Authority Act, 1999 to establish a statutory body to regulate, promote and ensure orderly growth of insurance and reinsurance business as also to protect the interest of policy holders. The constitution of the Insurance Regulatory and Development Authority (hereinafter referred to as the Authority/IRDA) is being considered as one of the most redeeming features of insurance reforms in 'India. The Insurance Regulatory Development Act also carried out a series of amendments to the Insurance Act of 1938 and conferred the powers of the Controller of Insurance on the IRDA.

The members of the IRDA are appointed by the Central Government from amongst persons of ability, integrity and standing who have knowledge or experience in life insurance, general insurance, actuarial science, finance, economics, law, accountancy, administration etc. The Authority consists of a chairperson, not more than five whole-time members and not more than four part-time members. The Authority has been entrusted with the duty to regulate, promote and ensure the orderly growth of the insurance and re-insurance business in India. In furtherance of this responsibility, it has been conferred with numerous powers and functions which include prescribing regulations on the investments of funds by insurance companies, regulating maintenance of the margin of solvency, adjudication of disputes between insurers and intermediaries, supervising the functioning of the Tariff Advisory Committee, specifying the percentage of premium income of the insurer to finance schemes for promoting and regulating professional organizations and specifying the percentage of life insurance business and general insurance business to be undertaken by the insurer in the rural or social sector.

The powers and functions of the IRDA include:

- (a) registration/modification/cancellation of registration of insurers;
- (b) to cause compliance of the requirement of capital structure of the companies as also solvency margin, insurance business in rural and social sector, submission of their returns/reports, approval and preparation of the scheme of amalgamation and transfer of insurance business;
- (c) issue of license to insurance intermediaries or agents;
- (d) control over management of insurers;
- (e) search and seizure,
- (f) protection of interest of policy holders,
- (g) promotion and regulation of professional organizations conducting insurance business,
- (h) regulation of investment of funds by insurance companies,
- (i) investigation and inspection of the affairs of the insurers,
- (j) adjudication of disputes between insurers and insurance intermediaries,
- (k) supervising functions of Tariff Advisory Committee,
- (l) and to frame regulations to carry out purposes of the Insurance Act, 1938.

## **2. Tariff Advisory Committee**

The Tariff Advisory Committee (“Advisory Committee”) is a body corporate, which controls and regulates the rates, advantages, terms and conditions offered by insurers in the general insurance business. The Advisory Committee has the authority to require any insurer to supply such information or statements necessary for discharge of its functions. Any insurer failing to comply with such provisions shall be deemed to have contravened the provisions of the Insurance Act. Every insurer is required to make an annual payment of fees to the Advisory Committee of an amount not exceeding in case of reinsurance business in India, one percent of the total premiums in respect of facultative insurance accepted by him in India; and in case of any other insurance business, one percent of the total gross premium written direct by him in India.

### **3. Insurance Association of India, Councils and Committees**

All insurers and provident societies incorporated or domiciled in India are members of the Insurance Association of India (“Insurance Association”) and all insurers and provident societies incorporated or domiciled elsewhere than in India are associate members of the Insurance Association. There are two councils of the Insurance Association, namely the Life Insurance Council and the General Insurance Council. The Life Insurance Council, through its Executive Committee, conducts examinations for individuals wishing to qualify themselves as insurance agents. It also fixes the limits for actual expenses by which the insurer carrying on life insurance business or any group of insurers can exceed from the prescribed limits under the Insurance Act. Likewise, the General Insurance Council, through its Executive Committee, may fix the limits by which the actual expenses of management incurred by an insurer carrying on general insurance business may exceed the limits as prescribed in the Insurance Act.

### **4. Ombudsmen**

The Ombudsmen are appointed in accordance with the Redressal of Public Grievances Rules, 1998, to resolve all complaints relating to settlement of claims on the part of insurance companies in a cost-effective, efficient and effective manner. Any person who has a grievance against an insurer may make a complaint to an Ombudsman within his jurisdiction, in the manner specified. However, prior to making a complaint, such person should have made a representation to the insurer and either the insurer has rejected the complaint or has not replied to it. Further, the complaint should be made not later than a year from the date of rejection of the complaint by the insurer and should not be any other proceedings pending in any other court, Consumer Forum or arbitrator pending on the same subject matter..

An insurance Ombudsman is appointed for a term of three years or till the incumbent attains the age of sixty five years, whichever is earlier. Re-appointment is not permitted.

The governing body of Insurance Council has appointed twelve Ombudsmen across the country allotting them different geographical areas as their areas of jurisdiction. The



Ombudsman may hold sitting at various places within their area of jurisdiction in order to expedite disposal of complaints. The offices of the twelve insurance Ombudsmen are located at (1) Bhopal, (2) Bhubaneswar, (3) Cochin, (4) Guwahati, (5) Chandigarh, (6) New Delhi, (7) Chennai, (8) Kolkata, (9) Ahmedabad, (10) Lucknow, (11) Mumbai and (12) Hyderabad.

Insurance Ombudsman has two types of functions to perform (1) conciliation, (2) Award making. The insurance Ombudsman is empowered to receive and consider complaints in respect of personal lines of insurance from any person who has any grievance against an insurer. The complaint may relate to any grievance against the insurer i.e. (a) any partial or total repudiation of claims by the insurance companies, (b) dispute with regard to premium paid or payable in terms of the policy, (c) dispute on the legal construction of the policy wordings in case such dispute relates to claims; (d) delay in settlement of claims and (e) non-issuance of any insurance document to customers after receipt of premium.

Ombudsman's powers are restricted to insurance contracts of value not exceeding Rs. 20 lakhs. The insurance companies are required to honour the awards passed by an Insurance Ombudsman within three months.

If the policy holder is not satisfied with the award of the Ombudsman he can approach other venues like Consumer Forums and Courts of law for redressal of his grievances.

As per the policy-holder's protection regulations, every insurer should inform the policy holder along with the policy document in respect of the insurance Ombudsman in whose jurisdiction his office falls for the purpose of grievances redressal arising if any subsequently.

## 16. PROFESSIONAL OPPORTUNITIES IN INSURANCE SECTOR

Insurance industry is a growth-oriented industry globally. In India too, the industry has started to reveal the potential after liberalization of the sector. The altered scenario of the insurance market in India has brought in new challenges as well as opportunities. The insurance market has already been thrown open for private players - both domestic as well as foreign. Several global players have also swarmed the market, in alliance with Indian partners. The landscape has also broadened for professionals willing to serve the industry.

Chartered Accountants are professionals with sharp analytical skills, excellent technical brilliance and meticulous working style. Hence they possess the right expertise the insurance industry requires in the present global scenario.

The Insurance Act, 1938 has mandated insurance companies to have their final accounts audited as required under the Companies Act, 1956. The relevant formats for preparation of financial statements have been prescribed separately for life and non-life insurance companies by IRDA (Preparation of Financial Statements and Auditor's Report of Insurance Companies) Regulations, 2002. Insurance firms should also undertake concurrent audit as per the circular issued by the IRDA. Apart from the stipulations on preparation of financial statements and necessary formats, the said Regulation also indicates specific areas of concern like compliance with the legislation, directives, guidelines etc., on which the auditors are required to report, certify and/or give their opinion. Apart from the year-end certification as specified in the Regulations, Auditors' certification is also called for on a periodic/adhoc basis on concerned areas. Chartered Accountants are, therefore, thrust with the important responsibility of authenticating the information submitted to the Regulator by an insurance company.

Apart from preparing financial statements, Chartered Accountants as professionals have the following opportunities in the insurance sector -

## **1) Audit**

In the insurance sector, Chartered Accountants can be statutory auditors or can undertake various types of audit like investigation audit, tax audit, internal audit, investment audit, systems audit etc.

Appointment of statutory auditors is regulated by IRDA circular dated 25/07/05.

Statutory auditors should be a firm of atleast 15 years standing and should not carry out statutory audit of more than 2 insurers. An audit firm can be retained as statutory auditors for a maximum period of 5 years and there is a cooling period of 2 years. However the audit firm can accept statutory audit of any other insurer.

Insurance firms have to undertake an investment-specific concurrent audit as mandated by the Insurance Regulatory and Development Authority (IRDA). Hence this is also a great opportunity for Chartered Accountants to conduct concurrent audit of insurance companies.

## **2) Insurance Consultant**

Chartered Accountant, as an Insurance consultant, can render valuable advice in various areas of insurance business. A Chartered Accountant with his vast knowledge and experience can assist companies in making informed decisions with regard to - operating systems, corporate structure, methods, procedures, vendor affiliations, training, bench marking, selecting third party administrators, mergers, acquisitions and, evaluating internal compliance to company procedures etc.

## **3) Actuary**

An actuary is a financial expert who applies mathematical and statistical methods for assessment of financial and other risks relating to various contingent events and for scientific valuation of financial products in the fields

of insurance, retirement and other various benefits, investment and other related areas.

According to Insurance Regulatory and Development Authority (Appointed Actuary) Regulations, 2000, every insurer who carries on insurance business should appoint an actuary and will be known as Appointed Actuary. Under the corporate governance guidelines, the Appointed Actuary has a special executive and statutory role.

IRDA has also brought out detailed Regulations on Appointed Actuary vide IRDA (Appointed Actuary) Regulations, 2000, detailing the procedure for his appointment, qualifications, powers along with his duties and obligations. The Regulations also stipulate that prior approval of the Authority should be obtained taken for the appointment of the Appointed Actuary.

The Appointed Actuary should provide professional advice or certification to the Board with regard to:

- i. estimation of technical provisions in accordance with the valuation framework set up by the insurer;
- ii. identification and estimation of material risks and appropriate management of the risks;
- iii. financial condition testing;
- iv. solvency margin requirements;
- v. appropriateness of premiums (and surrender value);
- vi. allocation of bonuses to with-profit insurance contracts;
- vii. management of participating funds (including analysis of material effects caused by strategies and policies);
- viii. product design, risk mitigation (including reinsurance) and other related risk management roles.

The areas of advice/certification listed above are with specific reference to life insurance companies and the appointed actuaries in case of non life

insurance companies can provide such advice/certification to the extent applicable.

A Chartered Accountant with his vast knowledge of finance and mathematical skills will be the right person to be appointed as an Actuary.

#### **4) Underwriting**

Underwriting requires the following skills -

- Knowledge of individual risk peculiarities.
- Assessing how the risk & a peril produce potential losses.
- Estimating magnitude of losses - peril-wise.
- Estimating insured's systems & capabilities for prevention & minimization of losses.
- Prescribing rates, terms & conditions.
- Deciding on retention & risk transfer.

A great amount of quality, expertise and experience in handling losses and minimizing them is required for job of underwriting. It provides immense opportunity for professionals like Chartered Accountants with their all round skills.

#### **5) Surveyor**

Insurance surveyors are qualified professionals deputed for the assessment of losses. They play an important role as they serve a link between the insurer and the insured. Their job is to assess the actual loss and avoid false claims filed by the insured and on the other hand help the insured who has suffered a genuine loss by indemnification of the loss. They act as investigators / assessors for determining the loss and liability to be reported to the insurance company.

A professional like a Chartered Accountant will be the right person to assess the damage or loss to the object of insurance due to his analytical skills.

## **6) Insurance Broker**

An insurance broker has a fiduciary duty to act in the best interests of the customer and provide sound practical advice which is independent of any insurance company's influence. Broking is a hand on role requiring a combination of technical knowledge, business, communication, people and practical skills. Brokers make a difference to their customers' businesses daily by anticipating trends, understanding the risks, offering choice, structuring their insurance program, extending the cover, solving problems and management of claims; and reducing cost for a majority of commercial and retail customers who trust their brokers for expert advice and unbiased opinion.

According to the Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002, an applicant or principal officer of the Insurance Broker should possess certain minimum qualifications for obtaining licence to become an insurance broker. One of the minimum qualifications under Regulation 9(2)(F) is that an applicant may be an Associate / Fellow of the Institute of Chartered Accountants of India, New Delhi.

## **7) Risk Management**

Risk Management is defined as the systematic way of ensuring protection of business resources and income against losses so that the aim, goals and vision of the company can be reached.

Risk management is done by

- Risk Analysis i.e. risk identification and risk evaluation;
- Risk Control - risk avoidance or minimization;

- Risk Transfer - insurance;
- Risk financing - risk retention;
- Rolling review.

The above mentioned tasks can be done only by a person who is conversant in the identification and measurement of risks and has excellent analytical skills. All these qualities are inherent in a Chartered Accountant.

#### **8) Arbitration**

Arbitration is a procedure of settlement of dispute between two parties by an authority called arbitrator. A Chartered Accountant with a vast amount of experience in various fields can assist the parties to a dispute either as a counsel or he can decide on the dispute of the parties as an Arbitrator.

#### **9) Claims administration**

Claims processing is highly data intensive and time sensitive. Chartered Accountants with their high level of financial acumen can provide their services in effective management and understanding the system and interaction with the concerned parties.

#### **10) Creation of new insurance products**

Chartered Accountants with appropriate customer understanding can design appropriate products, determine price correctly and increase profitability. They can advise on premiums, rebates and the like for products unique to specific industries/companies and suggest risk -mitigating measures.

#### **11) Asset Management**

Insurers need to ensure that it holds sufficient assets of appropriate nature, term and liquidity to enable it to meet its liabilities as they become due. Detailed analysis and management of asset / liability relationship is a pre-

requisite to the development and review of investment policies and procedures which ensure that the insurer adequately manages the investment-related risks to its solvency. Such kind of detailed analysis can be done only by a highly qualified professional like Chartered Accountant.

## **12) Accounting**

Chartered Accountants with their immense accounting skills have various opportunities in the insurance sector.

IFRS 4 specifies accounting for insurance contracts issued by any entity. It also specifies accounting for reinsurance contracts issued or held by an entity. The standard applies to these contracts, irrespective of whether the entity is regulated as an insurer and whether the contract is regarded as an insurance contract for legal purposes.

An insurance contract is a contract under which one party (the insurer) accepts significant insurance risk from another party (the policyholder) by agreeing to compensate the policyholder if a specified uncertain future event (the insured event) adversely affects the policyholder. Insurance risk does not include financial risk (e.g. risk of changes in market prices or interest rates).

IFRS 4 has been issued as a short-term measure to fill a gap in IFRSs. In the absence of IFRS 4, entities would be required to account for insurance contracts following precedents in other standards, and the definitions, recognition criteria and measurement concepts for assets, liabilities, income and expenses in the Framework for the Preparation and Presentation of Financial Statements.

The IFRS requires disclosure to help users understand:

(a) The amounts in the insurer's financial statements that arise from insurance contracts.



(b) The amount, timing and uncertainty of future cash flows from insurance contracts.

**13) Taxation**

Chartered Accountants with their extensive knowledge of various taxes and its aspects can guide the insurance companies in payment of taxes and also guide individuals to take appropriate policies for saving taxes.

**14) Independent director**

Chartered Accountants with their extensive knowledge on various aspects are the right person to become independent directors in Insurance companies. They can advise the Board on various aspects of risk management, business operations, oversee financial statements and reports and ensure smooth functioning of the audit department.

Under the Corporate Governance guidelines for insurance companies, the Chairman of the Audit Committee should be an independent Director of the Board and should ideally be a professional Chartered Accountant or a person with strong financial analysis background. This highlights the fact that Chartered Accountants are the right persons to be on the Board of Directors and be Independent directors of insurance companies.

**15) Fraud investigator**

Fraud risk exposure from claims or surrender is a major concern area for the insurance industry. Fraud detection and management should be a proactive process which includes identification of suspicious claims that have a high possibility of being fraudulent, through a computerized statistical analysis. The key motive for all insurance crimes is financial profit. Insurance contracts provide the insured and the insurer with opportunities for exploitation. The three major types of fraud are policy holder and claims fraud, intermediary fraud, internal fraud. Fraud investigations of insurance company can be aptly carried out by Chartered Accountants.

Chartered Accountants have already been providing valuable services in the various departments of life and non-life insurers and other intermediary services such as internal audit, statutory audit, management consultancy services, strategic consultancy services, investigation etc.

(In view of the existing provisions of the Chartered Accountants Act, 1949 and the Regulations framed there under, acting as Insurance Agent to the Insurance Companies is not open to the members of the Institute in practice. This particular opportunity is available only to those members who are not holding certificate of practice.)

## 17. INSURANCE ASSOCIATIONS AND REGULATORS ACROSS THE WORLD

### National Insurance Academy (NIA)

<http://www.niapune.com>

The National Insurance Academy is situated in Pune, India. It is a capacity builder in Insurance Sector of Asia and Africa founded in 1980 by the Finance Department of the Government of India with capital patronage from LIC and public sector general insurance industry.

The academy is an integrated management school with training, education, publications, research, consultancy and regulatory advisory services. Life Insurance, General Insurance, Reinsurance, Health Insurance, Crop Insurance, Credit Insurance , Pensions, Actuarial Services , Insurance Investment, developing insurance institutions and leadership for succession planning and Insurance regulatory compliance are the fields covered by the academy.

The academy has developed 7A framework for the organizational structure of insurance, 7P framework for the underwriting structure of insurance and 7E framework for the value structure of insurance. As per recent indications, the academy is likely to shift its focus from insurance technicalities and direct its focus on MBA as a complete package. The academy also does well in creating class intermediaries rather than concentrating on revenue generation by conducting broker and agent trainings and examinations. Academy has a set of rigorous academic advisors and people who are business leaders in the insurance sector.

### Insurance Institute of India (III, Mumbai)

<http://www.insuranceinstituteofindia.com>

The Insurance Institute of India formerly known as Federation of Insurance Institutes (J.C. Setalvad Memorial) was established in the year 1955, for the purpose of

promoting Insurance Education & Training in the country. Institute qualifications are held in esteem both by the regulator and the industry. In its role as an leading education and training provider I.I.I. is closely associated with all the segments of the insurance industry which includes Insurance regulatory authority of India, public and private sector insurance companies. More than 60 courses are offered by the Institute.

Shri Ramadoss, Chairman-cum-Managing Director, The New India Assurance Company Limited is the current President of Insurance Institute of India.

### **International Association of Insurance Supervisors (IAIS)**

<http://www.iaisweb.org>

The International Association of Insurance Supervisors (IAIS) was established in 1994 to promote cooperation among insurance supervisors and other financial sector supervisors. Over the years, the membership has grown and insurance supervisors from over 180 jurisdictions became members and over 100 organisations and individuals representing professional associations, insurance and reinsurance companies, international financial institutions, consultants and other professionals became observers.

The IAIS provides an effective forum for standard setting and implementation activities by providing opportunities to both practitioners and policy makers to share their expertise, experience and understanding. The IAIS develops principles, standards and guidance for effective insurance supervisory regimes. In doing so it helps to establish and maintain fair and efficient insurance markets for the benefit and protection of policyholders. The IAIS also prepares 'issue papers' that provide background on specific areas of interest to insurance supervisors.

The IAIS collaborates closely with other international financial institutions and international associations of supervisors or regulators and assists in shaping financial systems globally. The IAIS provides input to the International Accounting Standards Board (IASB) for its work on the international financial reporting standards most relevant to insurers, and is a member of the IASB's Standards Advisory Council as well

as an official observer of its Insurance Working Group and Financial Instruments Working Group. It also has observer status on the Financial Action Task Force, which combats money laundering and terrorist financing.

An Executive Committee, whose members represent different geographical regions, heads the IAIS. It is supported by three main committees - the Technical Committee, the Implementation Committee and the Budget Committee. These committees form subcommittees and working parties (working groups, task forces and groups) to accomplish their objectives.

#### **18. IMPORTANT WEBSITES**

<http://www.irda.gov.in> - Insurance Regulatory and Development Authority of India

<http://www.gbic.co.in/> - Governing Body of Insurance Council (GBIC)

<http://www.niapune.com> - National Insurance Academy (NIA)

<http://www.iaisweb.org> - International Association of Insurance Supervisors (IAIS)

<http://gicouncil.in> - General Insurance Council, India

<http://www.lifeinscouncil.org/> - Life Insurance Council, India