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MARCH 2004

THE HIDDEN PROTECTORS

बीमा विनियामक और विकास प्राधिकरण

Volume II, No.4

Journal

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From the Publisher

Reinsurance, which takes on the risk that insurers have taken on, has been a global business by its very nature. Sharing cross border risks makes high demands on technical expertise and knowledge of the local market, and of course capital.

India, when it liberalised its insurance industry and allowed private capital both Indian and foreign, had the primary objective of introducing competition into a sheltered industry so that the real demand in the economy for security in the form of insurance is met and consumer satisfaction maximised. Beyond that were also the social objectives of enabling the growth of health insurance and insurance coverage in the rural areas and for the socially weaker sections. And there was the economic objective of making India a regional hub for reinsurance.

Where we are in this quest and what companies are doing in terms of reinsurance in various ways is brought out in the collection of articles in this issue of **IRDA Journal**.

While the General Insurance Corporation of India is reinventing itself as the national reinsurer, the market also awaits the entry of new players. Global reinsurance companies have been showing interest and suggesting alternate terms of entry. Suggestions have been made that internationally renowned companies would like to operate a branch here rather than go in for a joint venture with an Indian partner and various reasons have been advanced for it including that of the safety of funds since branches would be backed by the parent companies' balance sheets.

While we are awaiting the entry of new players, the market needs are, however, being met now, as before, with the GIC offering domestic capacity and absorbing the compulsory 20 per cent cession and with global reinsurance companies operating as before and interacting with all Indian companies in the market. Hence there does not appear to be a sense of urgency for the entry of any new players as far as today's market needs are concerned.

But happen it must and the appropriate market and regulatory mechanisms for it will be arrived at in consultation and in the best interests of the industry and the policyholders. With that and the continued interaction between the industry members and the Regulator, we should work towards making India a centre for reinsurance activities in the Afro-Asian region in the next few years.

The next issue of the Journal will be about something that excites all our minds and worries us too. It will focus on gauging customer expectations. We hope to track the changes in customer attitudes and expectations and present to you what promises to be an interesting evolution.

C.S. Rao

C.S.RAO

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The Invisible Hand

Protection for the protectors is what this issue of **IRDA Journal** looks at. The activity, which is a hidden behind the scenes sheet anchor for the insurance industry is yet to occupy centre stage in the business scene within the Indian insurance industry. Why and what is expected to happen in the future can be seen through the articles in this issue. We have the new proposal of the National Reinsurer, General Insurance Corporation of India (GIC) for an earthquake pool and suggestions and appraisals from the broker fraternity including Mr. Salil Das of Aon Global, Mr. Bharat H. Boda and Mr. K. L. Naik of J. B. Boda & Company. We also have an articulation of Munich Re's position on entering the Indian market, which is a proposal to change the current entry norms. This position reflects the position that Swiss Re has taken in the past, notably in an article in the First Anniversary issue of **IRDA Journal**. Mr G. V. Rao outlines what the Indian direct insurer does and should do.

The column Keeping Count by Chartered Accountant Mr. P. S. Prabhakar first tracked various accounting and reporting issues in the general insurance industry and has now taken up a short series which is meant to be a primer on reading the balance sheets of general insurance companies. In this issue, coincidentally, he deals with ratio analysis of the reinsurance business as well.

The stock taking in the Anniversary issue has brought forth an impassioned and well thought out response from Ms. Nirmala Ayyar of AMP Sanmar Life Insurance Company. In part one of her analysis we bring you what she thinks of the product development situation in the life insurance market. In the next issue we will bring you her suggestions for tackling the rural market. The Journal was meant to provoke and inspire such independent thought by every member and stakeholder of this industry and we look forward to more frank and insightful pieces from our readers.

Our next issue will track changing customer expectations. We hope to bring you snapshots of what the customer has become, and what companies are doing to keep pace with his requirements and expectations. Sounds interesting? We at the Journal are looking forward as eagerly as you are to what the industry recounts for us in this regard!

K. Nitya Kalyani

It's What They Want...

K. Nitya Kalyani

***The Player**: We're more of the love, blood, and rhetoric school. Well, we can do you blood and love without the rhetoric, and we can do you blood and rhetoric without the love, and we can do you all three concurrent or consecutive. But we can't give you love and rhetoric without the blood. Blood is compulsory. They're all blood, you see.*

***Guildenstern:** Is that what people want?*

***The Player:** It's what we do.*

- From Tom Stoppard's play, Rosencrantz and Guildenstern are Dead

It's what we do.... The comfortable attitude of the telephone services provider, the banker, the corner provisions shop, the insurance company. We are here to serve you… take it or leave it… What kind of a choice was that? Usually we took it.

Not any more. In what has been a well commented on and an eye-opening decade, the Indian customer has been somewhat installed in a position where he can get what he wants. From one service provider, or the other. And that virtually seems to have been the key.

Competition was thought to motivate sellers into treating their customers right. The interesting thing is that competition elsewhere in the economy also seems to move service providers to shed this complacency.

So, insurers are under pressure because of hard-selling personal bankers or telecom companies. Or white goods manufacturers from vehicle manufacturers. Last week the salesperson in a government handloom emporium even offered to carry my bags to the parking lot! So where did all this come from?

In this quest to keep pace with the needs of the customer, technology has helped. In fact it plays a huge role in tracking and serving customers and serves as input for creating new products for the future. But surely there were delighted customers before technology arrived? And even today there are businesses not dependent on technology keeping their customers happy and, more realistically, keeping their customers.

So it's an attitude and a compulsion of the service provider who realises that, in the scheme of things, his customer is not his customer. He or she is A customer. Who could vanish to the nearest competitor, unless….

The new attitude came from the same old people. In the collective. So just as money flows to where it is most needed, customer service or an effort to satisfy the customer, happens only where needed. And when needed.

Is the answer for customers to be more demanding? It is true that today they are indeed more demanding. But being demanding without the right enabling circumstances is hardly an effective strategy.

And enabling them are consumer centric legislations like the Consumer Protection Act, 1986, and regulator led initiatives like IRDA's Protection of Policyholders' Interests Regulations.

These are only so many pieces of paper if the beneficiaries, the customers, did not use them as effective tools. And for that he has to arm himself with knowledge. Who is responsible for imparting that awareness? Consumer groups? The regulator? The press and other mass media? Service providers themselves?

We try to track some of these questions in our next issue of **IRDA Journal**. While on one side we will try to give you impressionistic views from the side of the companies of how customers seem to have changed, we will also try to track the thinking and the work of consumer groups in creating awareness as opposed to dealing with complaints and with litigation and find out from their experience how consumers have evolved.

TRACKING CUSTOMER EXPECTATIONS...

Send us your experience or favourite anecdote....

Sahara India Life Insurance Company Registered

Sahara India Life Insurance has received the registration certificate for commencement of insurance business – the R3 licence – from IRDA. This is the final approval for the registration of an insurance company by the IRDA and the company is expected to commence operations shortly.

The company is part of the Lucknow-based Sahara India group, and is venturing into the insurance business alone, becoming the second wholly Indian owned insurance company after the Reliance group's general insurance and life insurance companies.

Mr. N. C. Sharma, former Managing Director of Life Insurance Corporation of India (LIC), has been approved by IRDA as the CEO of Sahara India Life.

IRDA circular on non-life premium reporting

IRDA has asked general insurance companies to ensure that their reported premiums reflect only their share of coinsurance premiums and are net of service tax collected from insureds.

Easier Insurance Agency for NBFCs

The Reserve Bank of India (RBI) has announced that non-banking finance companies (NBFCs) registered with it might take up insurance agency business on a fee basis and without risk participation, without its approval.

However, the permission comes with the following conditions, stated a circular issued by RBI to all non-banking finance companies and residuary non-banking companies:

- The NBFCs should obtain requisite permission from the Insurance Regulatory Development Authority (IRDA) and comply with the IRDA regulations for acting as 'composite corporate agent' with insurance companies.
- They should not adopt any restrictive practice of forcing customers to go in only for a particular insurance company in respect of assets financed by them. The customers should be allowed to exercise their own choice.
- As the participation by an NBFC customer in insurance products is purely on a voluntary basis, it should be stated in all publicity material distributed by it in a prominent way. There should be no 'linkage' either direct or indirect between the provision of financial services offered by the NBFC to its customers and use of the insurance products.
- The premium should be paid by the insured directly to the insurance company without routing through the NBFC.
- The risks, if any, involved in insurance agency should not get transferred to the business of the NBFC.

However, NBFCs intending to set up insurance joint ventures with equity contribution on a risk participation basis, or making investments in insurance companies, would require to obtain the prior approval of RBI.

TAC to go in for VRS

The Tariff Advisory Committee (TAC) board has adopted a voluntary retirement scheme cleared by the Government along the lines of that offered in the public sector general insurance companies. The scheme will be open to all cadres of the statutory body upto the level of assistant general manager.

At the board meeting of the TAC held in Hyderabad on February 16 it was also decided to shut down the divisional offices at Lucknow and Bangalore. Further, the TAC will slowly phase out regional offices as well. On the tariff side, the tea tariff which was not withdrawn when the Marine Cargo business was detariffed in 1994 has now been withdrawn.

The TAC, which has about 220 employees on its rolls is a statutory body charged with the responsibility of setting rates and terms for the general insurance business. About 80 per cent of the general insurance business by value is under the tariff regime today and the industry and the Regulator are looking at dismantling them in the near to medium term future.

The VRS scheme is aimed at pruning manpower in the organisation that is thought to be overstaffed in an era where its role is going to be progressively minimised with the impending detariffing of the general insurance industry.

Meanwhile, the Ministry of Finance is reported to have cleared the VRS of the National reinsurer, General Insurance Corporation of India (GIC) along the lines of the public sector general insurance companies. In its new role as National reinsurer the 550 people strong GIC is also overstaffed since it no longer conducts the direct business of Aviation insurance and does not administer the crop insurance scheme following the setting up of the Agriculture Insurance Company of India recently.

Some Consumer Case Rulings

H.K. Awasthi

Medical Negligence

With an increasing number of cases against the medical practitioners in the consumer fora, doctors have started taking insurance covers for huge amounts.

The complainant in medical negligence cases is entitled to get the money from the insurance company to the extent of coverage. Such a case came up before the National Commission in a Revision Petition filed by Dr. C.C. Choubal against Mr. Pankaj Srivastava, IV (2003) CPJ III (NC).

Mr. Pankaj Srivastava filed a complaint before the District Forum against Dr. C.C. Choubal for medical negligence. Dr. Choubal filed an application to implead the insurance company as co-respondent. This application was dismissed by the District Forum and the State Commission also dismissed the appeal against the said order. Hence Dr. Choubal filed the revision petition before the National Commission.

While disposing of the petition the Commission observed that the insurance company may not be a necessary party but it is certainly a proper party in as much as claim against the doctor would be covered if there is any medical negligence found against him. Subsequently if the orders are passed against the doctor there would be no difficulty for the complainant to get the amount of compensation to the extent of amount of the policy from the insurance company.

> In any complaint of medical negligence the insurance company has to be impleaded for payment of compensation to the complainant, if so decided by the consumer fora.

Therefore, the National Commission instead of issuing notice to Mr. Pankaj Srivastava who was the complainant allowed the application of Dr. Choubal and set aside the order of the District Forum and the State Commission. Thus the insurance company shall be impleaded as a co-respondent and the complaint will be disposed of in accordance with law after notice to the parties and hearing their submissions.

Therefore in any complaint of medical negligence the Insurance company has to be impleaded for payment of compensation to the complainant, if so decided by the consumer fora.

Delay Costs

New India Assurance Company Ltd. failed to give explanation to the National Commission as to why it took more than six years to repudiate the claim of M/s Gammon India Ltd. It in itself was gross deficiency on the part of the insurance company. In addition, the insurance company failed to explain why it was thought necessary to appoint a second surveyor and why the report of the first surveyor was not accepted.

These were the observations of the National Commission in the complaint filed by M/s Gammon India Ltd. against New India Assurance Company Ltd (I (2004) CPJ 10 (NC)). In another case of National Insurance Company Ltd. Vs. New Patiala Trading Company, Revision Petition No. 488/1998, the National Commission had already held that a second surveyor cannot be appointed as a matter of course.

In this case M/s Gammon India Ltd took an insurance policy from New India Assurance Company for insuring the P3 well foundation for the Road Bridge across the river Siang at Ranaghat (Passighat, Arunachal Pradesh). The policy was for a sum of Rs. 32 lakhs for a period from July 20, 1991 to April 19, 1992. On account of flash floods on August 9, 1991 the P3 well got tilted and shifted.

> Insurance companies which have competent legal cells need to act and advise the officials concerned to settle the claims without delay so as to avoid financial liability.

The company said that further rectification of the well was carried out incurring a total expenditure of Rs. 26,21,631. This loss was notified to the insurance company on August 10, 1991. The insurance company appointed surveyor Mr. D. K. Borah to assess the loss. In spite of several letters from October 30, 1991 to December 26, 1994 from the complainant company, the claim was not settled. Therefore a complaint was filed.

On receiving notice the insurance company denied the claim in a written statement and also filed a report dated July 1, 1994 of Mr.D. K. Borah assessing the loss at Rs. 18,35,938. The insurance company did not furnish this report to the complainant. Thereafter, the insurance

company appointed another surveyor, M/s Inder Chadha and Associates who gave their report on February 14, 1996.

After receiving the report of the second surveyor, the insurance company by letter dated July 18, 1997 repudiated the claim of M/s Gammon India.

The insurance company took all this action during the pendency of the complaint before the National Commission. After the parties had filed their affidavits, the National Commission did not find any explanation as to why it took more than six years for the insurance company to repudiate the claim. The insurance company failed to explain this delay.

The commission held this delay in itself a gross deficiency in service on the part of any insurance company. Moreover there was no explanation from the insurance company as to what the necessity of appointing second surveyor was and why the report of the first surveyor was not accepted.

Therefore, the insurance company could not refuse to act on the report of the first surveyor, Mr. Borah. The complainant company was prepared to accept the report of the first surveyor and therefore prayed for being awarded compensation along with 18 per cent interest per annum. Under the circumstances the National Commission directed the insurance company to pay Rs. 18,35,938 with interest @ 17.5 per cent from April 1, 1992 till payment to the complainant company and cost of Rs. 10,000.

It is a clear case of inaction on the part of the insurance company in not responding and settling the claim of the company. This will cause financial liability of Rs. 18,35,938 plus interest @ 17.5 per cent for about 14 years. In fact the insurance companies which have competent legal cells need to act and advise the officials concerned to settle the claims without delay so as to avoid financial liability to the insurance company. IRDA may consider issuing suitable directions to all the insurance companies for settlement of claims.

False Claims

It has become common between insurers and insured to believe that the other side is abusing the claim investigation process. In fact there is an air of mutual mistrust when it comes to the finalisation of claims.

There is too common a belief that insureds are conspiring and hiding critical information in an effort to perpetrate insurance fraud whereas the insured generally holds that insurers are merely attempting to create evidence in supporting denial or trying to frame charges of suppression of information material to the claim. At times the insured takes insurance for making profits in a collusive manner by fabricating evidence and false bills/ vouchers for more than the actual loss in the assumption that if the claim is settled for even half the amount of his claim, he stands to gain.

Last year the National Consumer Disputes Redressal Commission decided a Revision Petition filed by Mr. R.P. Garg against New India Assurance Co. Ltd.

Mr. Garg insured his vehicle with the insurance company for the period March 13, 1999 till March 12, 2000. The vehicle met with an accident on August 23, 1999.

Mr. Garg lodged an FIR and sent the vehicle to the workshop of M/s Arun Singh and Raja Denter and incurred a total expenditure of Rs.2,05,905.95. The insurance company appointed the surveyor who assessed the actual loss to be Rs.35,379. The insurance company also deputed an investigator to enquire into the authenticity of the bills. On enquiring, the investigator found that the bill of Rs.38,000 towards denting works was fabricated because the denter himself stated that he charged Rs.8,000. There were other discrepancies in the bills.

Merely because no court fee is payable for lodging a complaint before the consumer forums, complainants have a tendency to exaggerate their claims and misuse the provisions of the Consumer Protection Act, 1986.

In view of the discrepancies and exaggerated claims made by Mr. Garg and the surveyor's and investigator's reports, the insurance company assessed the loss to be Rs.35,599. Both the District Forum and State Commission accepted the version of the insurance company and recorded the finding that the complainant fabricated the bills and submitted a false claim.

In the revision petition Mr. Garg contended that the insurance company relied on the surveyor's report and the investigator's versions without checking the photographs which were taken on the spot and without assessing the actual of repairs although all the bills of spare parts were produced by him. The cost of repairs was Rs.1,57,599.95.

The National Commission on perusing the records and orders of the District Forum and State Commission and hearing the Revision Petition did not believe his version as he did not come out with clean hands. It was established the claim was highly exaggerated and bills were fabricated.

The Commission did not appreciate the conduct of the petitioner who had submitted fabricated bills and made a false claim and further sought justice by filing complaints and going to the State and National Commissions on appeals. Hence the National Commission dismissed the Revision Petition (IV (2003) CPJ 107 (NC)).

Merely because no court fee is payable for lodging a complaint before the consumer forums, complainants have a tendency to exaggerate their claims and misuse the provisions of the Consumer Protection Act, 1986.

Theft is Robbery

Exclusion clauses in the insurance policy are the most often repeated plea of insurance companies to refute the claim of the insured. Many times, the words used in the exclusion clause have been interpreted by the courts in the practical and correct sense of the terms which upheld the claims of the insured and saved them from pecuniary losses.

In a recent case decided by the apex consumer court, the word robbery has been interpreted as an aggravated form of theft.

The National Insurance Company was directed to pay Rs. 99,816 with cost to the complainant, Mrs. Premlata Agarwal who owned a proprietorship concern, M/s Associated Enterprises, having a branch office at Jamshedpur. The firm is an authorised transporter of TISCO, Jamshedpur, and the branch office kept cash in hand for payments to be made to truck drivers for purchase of fuel and to meet other expenses.

She took an insurance policy dated August 13, 1998 covering losses up to Rs. one lakh from the National Insurance Company. It was alleged that in the night intervening April 19/20, 1999 at about two am some miscreants looted a total amount of Rs. 99,816 from the safe and table drawer of the branch office. An FIR was lodged with the police regarding the incident. The insurance company was also intimated about the occurrence on April 20, 1999 and again on April 22, 1999.

Since the insurance company did not pay the claim amount, Mrs. Premlata Agarwal filed a complaint before the District Forum. The insurance company resisted the claim on the ground that in view of the exclusion clause in the policy it was not liable to pay the amount allegedly robbed as it was her employee who was involved in the incident. Moreover the policy did not cover claims arising out of the offence of criminal breach of trust under section 406 IPC for which a chargesheet had been filed against her employee, Mr. Manoj Kumar. Further the policy in question covered the risk of burglary and house-breaking and not theft.

At the time of admission of the Revision Petition, the insurance company pleaded that the theft had not been proved by Mrs. Agarwal, the complainant/ respondent. The FIR showed that a case was registered under section 392 IPC against unknown persons on the basis of the statement of the manager (Mr. Deepak K. Agarwal) of the firm at Jamshedpur.

> In a recent case decided by the apex consumer court, the word robbery has been interpreted as an aggravated form of theft.

However, the police filed a charge sheet under section 406, IPC against Mr. Manoj Kumar, an employee of the firm, in the court of the Judicial Magistrate, First Class, Jamshedpur. The court acquitted Mr. Manoj Kumar on merits. Mrs. Agarwal filed an affidavit before the district forum for the loss of Rs. 99,816 and also contended that the police did not conduct a fair and impartial investigation and falsely implicated Mr. Manoj Kumar by filing a charge sheet u/ s 406, IPC.

Against this backdrop, the National Commission observed that the respondent (Mrs. Agarwal) could not have done anything to prove the incident of robbery except to file a copy of the FIR and her own affidavit in support of the averment made in her complaint.

The National Commission did not find any reason to disbelieve these facts and therefore did not agree with the submissions of the insurance company. The commission dismissed the revision petition by noting that robbery is an aggravated form of theft and it necessarily includes theft. (National Insurance Company Ltd & ors vs. Mrs. Premlata Agarwal, I (2004) CPJ 5(NC).

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Report Card:LIFE

New business growth over December drops to 14.75%

At the end of ten months of the financial year 2003-04, the thirteen players in the life insurance industry collectively crossed the ten thousand crore mark for the first year premium at Rs.11,14,516.61 lakhs towards 1,78,57,660 policies. The overall growth in business over cumulative premium underwritten upto December, 2003 was 14.74 per cent. While the growth in premium underwritten by the private players over the business numbers as at December, 2003 was 19.15 per cent, in the case of LIC it was 14.15 per cent. In terms of number of policies, the growth was 17.01 per cent.

The premium underwritten by the private players in the month of January, 2004 was Rs.1,36,468.05 lakhs, taking the share of these players to 12.24 per cent of the total premium underwritten during the ten month period.

As against this, LIC underwrote premiums of Rs.9,78,048.56 lakhs in January, 2004. The market share of LIC during the current financial year thus stood at 87.76 per cent, recording a decline of 0.45 per cent as against December, 2003.

In terms of number of policies underwritten, the market share of the private players stood at 6.09 per cent as against 93.91 per cent of LIC. The market share of LIC in terms of policies declined by 0.08 per cent as against April to December, 2003.

The premium underwritten by the private players for individual policies stood at Rs.1,21,275.99 lakhs, towards 10,85,999 policies during the period April to January, 2004 with group premium accounting for Rs.15,192.07 lakhs towards 768 schemes. The number of lives covered by the private players under the group schemes stood at 13,07,390.

In comparison the premium underwritten by LIC under the individual schemes stood at Rs.7,74,698.01 lakhs towards 1,67,60,234 policies, and premium under the group schemes was Rs.2,03,350.55 lakhs towards 10,659 schemes.

Until January, life insurers have underwritten 66 per cent of the single and first year premium procured during the financial year 2002-03.

First Year Premium – December 2003

		Premium u/w		% of Premium	No. of Policies/Schemes		% of Policies	No. of lives covered under Group Schemes		% of lives under Group Schemes
		January	Upto Jan.	Upto Jan.	January	Upto Jan.	Upto Jan.	January	Upto Jan.	Upto Jan.
1	**Allianz Bajaj**	**1,364.39**	**9,389.47**	**0.84**	**15,734**	**1,25,492**	**0.70**	**26,492**	**54,938**	**1.26**
	Individual Single Premium	4.89	274.37		6	703				
	Individual Non-Single Premium	1,334.47	9,049.29		15,724	1,24,746				
	Group Single Premium		0.76			1			781	
	Group Non-Single Premium	25.03	65.05		4	42		26,492	54,157	
2	**ING Vysya**	**867.51**	**3,835.34**	**0.34**	**8,876**	**50,810**	**0.28**	**88**	**1,084**	**0.02**
	Individual Single Premium	0.01	19.00		1	2,796				
	Individual Non-Single Premium	867.42	3,814.29		8,874	48,012				
	Group Single Premium									
	Group Non-Single Premium	0.08	2.05		1	2		88	1,084	
3	**AMP Sanmar**	**249.14**	**1,835.95**	**0.16**	**2,418**	**33,738**	**0.19**	**6,705**	**53,217**	**1.22**
	Individual Single Premium									
	Individual Non-Single Premium	179.29	1,653.05		2,417	33,725				
	Group Single Premium									
	Group Non-Single Premium	69.85	182.90		1	13		6,705	53,217	
4	**SBI Life**	**2,088.50**	**9,369.04**	**0.84**	**7,872**	**53,942**	**0.30**	**45,019**	**5,18,545**	**11.91**
	Individual Single Premium	400.38	1,576.76		285	5,593				
	Individual Non-Single Premium	462.44	2,234.90		7,522	48,038				
	Group Single Premium	865.39	3,817.98		4	22		9,182	38,909	
	Group Non-Single Premium	360.29	1,739.40		61	289		35,837	4,79,636	
5	**Tata AIG**	**960.45**	**11,533.00**	**1.03**	**11,043**	**1,20,622**	**0.68**	**20,954**	**1,44,256**	**3.31**
	Individual Single Premium									
	Individual Non-Single Premium	802.00	9,386.70		11,036	1,20,568				
	Group Single Premium	59.73	385.60			1		7,474	77,603	
	Group Non-Single Premium	98.71	1,760.70		7	53		13,480	66,653	

		Premium u/w		% of Premium	No. of Policies/Schemes		% of Policies	No. of lives covered under Group Schemes		% of lives under Group Schemes
		January	Upto Jan.	Upto Jan.	January	Upto Jan.	Upto Jan.	January	Upto Jan.	Upto Jan.
6	**HDFC Standard**	**2,051.64**	**12,784.87**	**1.15**	**15,045**	**1,48,711**	**0.83**	**6,079**	**41,618**	**0.96**
	Individual Single Premium	461.98	4,280.76		1,111	34,593				
	Individual Non-Single Premium	1,096.47	7,586.58		13,922	1,14,028				
	Group Single Premium	493.19	917.53		12	90		6,079	41,618	
	Group Non-Single Premium									
7	**ICICI Prudential**	**8,610.93**	**46,455.18**	**4.17**	**53,275**	**2,60,760**	**1.46**	**5,644**	**23,754**	**0.55**
	Individual Single Premium	959.00	8,353.00		439	8,096				
	Individual Non-Single Premium	7,599.00	37,774.00		52,828	2,52,622				
	Group Single Premium	28.93	147.18		7	37		5,356	22,901	
	Group Non-Single Premium	24.00	181.00		1	5		288	853	
8	**Birla Sunlife**	**3,116.11**	**19,504.76**	**1.75**	**16,070**	**92,718**	**0.52**	**26,948**	**1,76,596**	**4.05**
	Individual Single Premium	163.32	997.18		2,793	18,248				
	Individual Non-Single Premium	2,325.41	13,526.54		13,264	74,378				
	Group Single Premium	37.93	322.60					311	2,512	
	Group Non-Single Premium	589.45	4,658.44		13	92		26,637	1,74,084	
9	**Aviva**	**911.13**	**5,063.76**	**0.45**	**5,879**	**50,553**	**0.28**	**5,803**	**40,678**	**0.93**
	Individual Single Premium	111.12	378.95		89	575				
	Individual Non-Single Premium	790.22	4,656.57		5,787	49,965				
	Group Single Premium									
	Group Non-Single Premium	9.79	28.24		3	13		5,803	40,678	
10	**OM Kotak Mahindra**	**797.23**	**6,039.39**	**0.54**	**3,736**	**34,186**	**0.19**	**-6,621**	**37,176**	**0.85**
	Individual Single Premium	5.60	261.23		11	219				
	Individual Non-Single Premium	780.10	5,220.47		3,723	33,945				
	Group Single Premium									
	Group Non-Single Premium	11.53	557.69		2	22		-6,621	37,176	
11	**Max New York Life**	**748.86**	**9,097.71**	**0.82**	**12,789**	**98,650**	**0.55**	**1,299**	**1,99,122**	**4.57**
	Individual Single Premium	14.88	146.61		19	160				
	Individual Non-Single Premium	730.62	8,554.25		12,768	98,409				
	Group Single Premium									
	Group Non-Single Premium	3.36	396.85		2	81		1,299	1,99,122	
12	**MetLife**	**227.69**	**1,559.59**	**0.14**	**2,281**	**16,585**	**0.09**	**1,292**	**16,406**	**0.38**
	Individual Single Premium	5.20	32.68		32	204				
	Individual Non-Single Premium	215.59	1,498.80		2,248	16,376				
	Group Single Premium									
	Group Non-Single Premium	6.90	28.11		1	5		1,292	16,406	
	Private Total	**21,993.56**	**1,36,468.05**	**12.24**	**1,55,018**	**10,86,767**	**6.09**	**1,39,702**	**13,07,390**	**30.02**
13	**LIC**	**1,21,254.23**	**9,78,048.56**	**87.76**	**24,26,681**	**1,67,70,893**	**93.91**	**6,76,784**	**30,47,706**	**69.98**
	Individual Single Premium	10,269.42	53,454.02		30,901	1,03,246				
	Individual Non-Single Premium	85,186.67	7,21,243.99		23,94,353	1,66,56,988				
	Group Single Premium	25,798.14	2,03,350.55		1,427	10,659		6,76,784	30,47,706	
	Group Non-Single Premium									
	Grand Total	**1,43,247.79**	**11,14,516.61**	**100.00**	**25,81,699**	**1,78,57,660**	**100.00**	**8,16,486**	**43,55,096**	**100.00**

Note: LIC's business figures do not include Varishtha Pension Bima Yojana.

Quarter Three, 2003-04

Based on the first year premium (including single premium) statistics furnished by the insurers for ninemonths, an analysis of the performance of the private players and LIC has been carried out.

The total premium underwritten by the insurers during the nine months period was Rs.9,71,321.03 lakhs towards 1,52,61,435 policies, of which LIC underwrote a premium of Rs.8,56,794.33 lakhs for 1,43,44,212 policies capturing 88.21 per cent and 93.99 per cent, respectively of the market share. In comparison, the private players underwrote premium of Rs.11,4526.70 lakhs for 9,17,223 policies, i.e., market share of 11.79 per cent and 6.01 per cent respectively.

Broadly the business underwritten is categorised into individual and group. Further, both these categories have been classified into non-linked and linked businesses with each having sub classifications of life, general annuity, pension and health business, further broken up into "with profit" and "without profit" respectively.

PRIVATE SECTOR

Total Individual business

Individual business of private insurers accounted for Rs.1,02,018.56 lakhs for 9,16,567 policies and sum assured of Rs.21,23,478.13 lakhs, i.e., 89 per cent of the business underwritten by them.

Individual Non-linked business

The premium underwritten by the private players in this segment was Rs.53,347.45 lakhs for 6,98,381 policies and sum assured of Rs.16,19,118.78 lakhs. Life "with profit" policies contributed 84per cent of the entire business underwritten, with premium of Rs.44,644.84 lakhs for 5,43,789 policies and sum assured of Rs.8,50,491.99 lakhs. As against this, life "without profit" accounted only for Rs.3,652.20 lakhs for 1,21,586 policies and Rs.2,81,301.51 lakhs sum assured.

Pensions "with profit" accounted for premium of Rs.3,522.14 lakhs towards 26,814 policies and sum assured of Rs.53,526.14 lakhs, with a nominal Rs. four lakhs premium for 5 policies underwritten towards pensions "without profit".

Under the General annuity segment, the "with profit" policies were preferred as against "without profit". This segment captured premium of Rs.131.52 lakhs for 984 policies and sum assured of Rs.2,209.22 lakhs.

The health segment garnered "without profit" business with premium of Rs.126.47 lakhs for 5,203 policies and Rs.8,253.75 lakhs sum assured.

Individual linked business

An overall premium of Rs.48,671.11 lakhs was underwritten for 2,18,186 policies and sum assured of Rs.5,04,359.36 lakhs in this category. In contrast to the non-linked business, "without profit" policies were more popular than "with profit" policies. Life "with profit" captured a premium of Rs.2,013.32 lakhs for 18,399 policies and sum assured of Rs.32,528.97 lakhs whereas, life "without profit" garnered a premium of Rs.39,227.75 lakhs for 1,47,494 policies and Rs.3,75,921.52 lakhs sum assured.

Pension "with profit" policies garnered premium of Rs.143.02 lakhs for 1,467 policies was underwritten, as against which business underwritten for Pension "without profit" at Rs.7,064.67 lakhs for 50,826 policies and sum assured of Rs.16,940.06 lakhs.

The re-grouping of the individual business underwritten by the private players in terms of single and non-single, further reveals that premium of Rs.14,201.90 lakhs towards 52,074 policies was underwritten in the single premium category as against Rs.87,816.65 lakhs for 8,64,493 policies in non-single premium category.

Total Group business

The private players underwrote premium of Rs.12,508.14 lakhs for 656 policies covering 11,68,726 lives, under the group category.

Group Non-linked business

Premium of Rs.12,266.81 lakhs towards 641 schemes was underwritten in this category. Life "without profit" schemes contributed 94 per cent of the business underwritten in this category, with premium of Rs.11,530.92 lakhs for 626 schemes. As against this, life "with profit" accounted only for Rs.74.68 lakhs towards five policies.

Under this category the pension "without profit" policies contributed a premium of Rs.232.32 lakhs towards four policies.

The General Annuity "without profit" premium underwritten was Rs.331.64 lakhs for six polices.

Group linked business

The total premium underwritten in this category was Rs.241.32 lakhs towards six policies.

Most of the business underwritten was in the life "without profit" category. The premium garnered was Rs.227.32 lakhs towards four policies.

A premium of Rs.14 lakhs for two policies was under written in the pension "without profit" category.

PUBLIC SECTOR

Total Individual business

Life Insurance Corporation of India underwrote individual premium of Rs.6,79,241.92 lakhs for 1,43,34,980 policies with a sum assured of Rs.1,04,45,187 lakhs, i.e., 79 per cent of the entire business underwritten by them.

Individual non-linked business

Premium of Rs.6,73,372.15 lakhs was underwritten in this category for 1,43,07,967 policies and a sum assured of Rs.1,04,26,241.91 lakhs i.e., 99 per cent of the business underwritten in the individual category.

Maximum business was underwritten in the life "with profit" category contributing a premium of Rs.5,91,123.70 lakhs for 1,32,90,698 policies and a sum assured of Rs.85,82,513.02 lakhs, i.e., 88 per cent of the individual non-linked business. Life "without profit" premium underwritten was Rs.50,095.63 lakhs for 7,94,274 policies and a sum assured of Rs.15,47,834.65 lakhs.

Pension "with profit" and "without profit" premiums were Rs.9,258.31 lakhs for 61,091 policies and Rs.11,160.85 lakhs for 13,338 policies respectively.

Similarly, the health premium underwritten in the "with profit" and "without profit" category were Rs.1137.15 lakhs towards 28,182 policies for a sum assured of Rs.33,862.01 lakhs and Rs.10,596.51 lakhs towards 1,20,384 policies for a sum assured of Rs.2,62,032.23 lakhs.

Individual linked business

Premium of Rs.5,869.77 lakhs towards 27,013 policies for a sum assured of Rs.18,945.09 lakhs was underwritten in this category, all of which was from life "without profit".

INDIVIDUAL NEW BUSINESS (INCLUDING RURAL & SOCIAL)

SINGLE PREMIUM

(Rs. in lakhs)

S.No.	Particulars	Premium	Policies	Sum Assured
	Non linked*			
1	**Life**			
	with profit	14,833.25	28,783	17,747.87
	without profit	19,090.56	61,681	37,716.20
2	**General Annuity**			
	with profit	20.48	16	35.49
3	**Pension**			
	with profit	3,901.33	11,542	490.48
	without profit	11,164.85	13,343	1.00
4	**Health**			
A.	**Sub total**	49,010.48	1,15,365	55,991.03
	Linked*			
1	**Life**			
	with profit	132.25	137	133.57
	without profit	7,333.25	8,186	7,525.70
2	**General Annuity**			
3	**Pension**			
	without profit	886.85	731	325.56
4	**Health**			
B.	**Sub total**	8,352.35	9,054	7,984.84
C.	**Total (A+B)**	57,362.82	1,24,419	63,975.87
	Riders:			
	Non linked			
1	Health#	5.95	31	104.20
2	Accident##	12.52	763	1,087.60
3	Term	0.61	23	16.55
D.	**Sub total**	19.08	817	1,208.35
	Linked			
1	Health#	2.59	16	31.05
2	Accident##	0.90	34	48.97
3	Term	1.11	6	16.50
E.	**Sub total**	4.60	56	96.52
F.	**Total (D+E)**	23.68	873	1,304.87
G.	**Grand Total (C+F)**	57,386.50	1,24,419	65,280.74

NON-SINGLE PREMIUM

(Rs. in lakhs)

S.No.	Particulars	Premium	Policies	Sum Assured
	Non linked*			
1	**Life**			
	with profit	6,20,935.29	1,38,05,704	94,15,257.14
	without profit	34,657.27	8,54,179	17,91,419.96
2	**General Annuity**			
	with profit	111.04	968	2,173.73
3	**Pension**			
	with profit	8,879.12	76,363	53,035.66
4	**Health**			
	with profit	1,137.15	28,182	33,862.01
	without profit	10,722.98	1,25,587	2,70,285.98
A.	**Sub total**	6,76,442.86	1,48,90,983	1,15,66,034.48
	Linked*			
1	**Life**			
	with profit	1,881.07	18,262	32,395.40
	without profit	37,764.27	1,66,321	3,87,340.91
2	**General Annuity**			
3	**Pension**			
	with profit	143.02	1,467	
	without profit	6,177.82	50,095	16,614.50
4	**Health**			
B.	**Sub total**	45,966.17	2,36,145	4,36,350.81
C.	**Total (A+B)**	7,22,409.03	1,51,27,128	1,20,02,385.28
	Riders:			
	Non linked			
1	Health#	394.89	64,569	40,390.78
2	Accident##	532.42	3,24,806	3,47,575.80
3	Term	107.13	24,153	18,120.90
4	Others	212.75	44,849	16,039.36
D.	**Sub total**	1,247.18	4,58,377	4,22,126.83
	Linked			
1	Health#	61.41	7,682	23,030.22
2	Accident##	47.31	23,999	40,516.98
3	Term	69.50	7,669	14,491.90
4	Others	39.54	7,027	833.18
E.	**Sub total**	217.76	46,377	78,872.28
F.	**Total (D+E)**	1,464.95	5,04,754	5,00,999.11
G.	**Grand Total (C+F)**	7,23,873.97	1,51,27,128	1,25,03,384.39

Total group business

Total group premium of Rs.1,77,552.41 lakhs covering 23,70,922 lives for a sum assured of Rs.8,86,013.30 lakhs under 9,232 schemes was underwritten by LIC. The entire business under the group segment was underwritten as non-linked business.

Group Non-linked business:

"without profit" schemes of life and pension were more popular in this class of business. No health policies were underwritten in this category. Life "without profit" schemes accounted for a premium of Rs.71,012.13 lakhs for a sum assured of Rs.8,84,607.70 lakhs for 8,903 schemes. Pension "without profit" schemes accounted for a premium of Rs.33,573.85 lakhs for a sum assured of Rs.1,405.60 lakhs under 303 schemes. General annuity "without profit" premium underwritten was Rs.39,370.68 lakhs as against general

GROUP NEW BUSINESS (INCLUDING RURAL & SOCIAL)

SINGLE PREMIUM

(Rs. in lakhs)

Sl No.	Particulars	Premium	No.of Schemes	Lives Covered	Sum Assured
	Non linked*				
1	Life				
a)	**Group Gratuity Schemes**				
	without profit	51,052.52	1,246	2,01,067	1,48,001.34
b)	**Group Savings Linked Schemes**				
	without profit	638.93	584	54,370	66,897.39
c)	**EDLI**				
	without profit	222.94	649	2,19,123	93,757.68
d)	**Others**				
	with profit	70.48	3	8,974	61,787.18
	without profit	23,069.06	6,547	19,68,176	95,39,59.81
2	**General Annuity**				
	with profit	33,595.75	26	7,523	
	without profit	39,370.68		9,715	
3	**Pension**				
	without profit	33,573.85	303	57,233	1,405.60
4	**Health**				
A.	**Sub total**	1,81,594.21	9,358	25,26,181	13,25,809.00
	Linked*				
1	**Life**				
a)	**Group Gratuity Schemes**				
	without profit	143.00	2	506	1,338.00
b)	**Group Savings Linked Schemes**				
c)	**EDLI**				
d)	**Others**				
2	**General Annuity**				
3	**Pension**				
	without profit	14.00	2	89	
4	**Health**				
B.	**Sub total**	157.00	4	595	1,338.00
C.	**Total (A+B)**	1,81,751.21	9,362	25,26,776	13,27,147.00
	Riders:				
	Non linked				
1	Health#	28.58	27	4,687	31,433.77
2	Accident##	19.11	28	5,064	35,369.10
3	Term	17.29	20	6,186	31,318.35
D.	**Sub total**	64.98	75	15,937	98,121.22
	Linked				
F.	**Total (D+E)**	64.98	75	15,937	98,121.22
G.	****Grand Total (C+F)**	1,81,816.20	9,371	25,27,483	14,25,268.22

NON-SINGLE PREMIUM

(Rs. in lakhs)

Sl No.	Particulars	Premium	No.of Schemes	Lives Covered	Sum Assured
	Non linked*				
1	**Life**				
a)	**Group Gratuity Schemes**				
	with profit	4.20	2	217	26.95
	without profit	4,845.13	41	13,812	6,419.56
b)	Group Savings Linked Schemes				
	without profit	495.29	23	1,44,305	3,02,353.80
c)	EDLI				
	without profit	341.16	58	2,02,218	1,50,146.93
d)	Others				
	without profit	1,878.02	381	6,50,727	9,59,993.41
2	**General Annuity**				
	without profit	331.64	6	378	331.64
3	**Pension**				
	without profit	232.32	4	333	0.00
4	**Health**				
A.	**Sub total**	8,127.76	515	10,11,990	14,19,272.30
	Linked*				
1	**Life**				
a)	Group Gratuity Schemes				
	without profit	1.31	1	127	40.69
b)	Group Savings Linked Schemes				
c)	EDLI				
d)	Others				
	without profit	83.01	1	48	90.63
2	**General Annuity**				
3	**Pension**				
4	**Health**				
B.	**Sub total**	84.32	2	175	131.33
C.	**Total (A+B)**	8,212.08	517	10,12,165	14,19,403.62
	Riders:				
	Non linked				
1	Health#	15.95	19	3529	9,878.93
2	Accident##	13.71	24	13422	53,220.61
3	Term	2.02	3	451	804.00
4	Others	0.58	3	8177	1,024.24
D.	**Sub total**	32.27	49	25579	64,927.78
	Linked				
F.	**Total (D+E)**	32.27	49	25,579	64,927.78
G.	****Grand Total (C+F)**	8,244.35	517	10,12,165	14,84,331.41

Sub categorisation not indicated in respect of heads where "numbers" are nil.
* Excluding rider figures.
** for policies Grand Total is C.
# All riders related to critical illness benefit, hospitalisation benefit and medical treatment.
Disability related riders.
The premium is the actual amount received and not annualised premium.

annuity "with profit" premium underwritten at Rs.33,595.75 lakhs for 26 schemes.

Overall Analysis

In terms of the total business underwritten by the life insurers, individual premium accounted for 80 per cent of the market share and 99.9 per cent of the number of policies for the nine-months ended December, 2003. The group business accounted for the remaining nominal market share in terms of both premium and number of policies.

Into Reality !

K. Nitya Kalyani

As with most other things in the real world, opening up has its advantages and disadvantages. Rewards and challenges.

One of the challenges – which has not yet become urgent in the market – is that of reinsurance. And the level of rewards of meeting that challenge depends on how well we meet them and acquit ourselves.

Reinsurance has been the preserve of the General Insurance Corporation of India (GIC) alone for many years as far as operating on Indian soil is concerned. Earlier as the owner of the general insurance industry it ran the outward reinsurance programmes of its four subsidiaries. Now that the delinked companies do their own placement, GIC, as the designated National Reinsurer has turned its attention to the Inward side of the business. It accepts the 20 per cent compulsory cession from all Indian insurers and also reinsurance from other markets.

While it is in its initial period of acquiring new customers and market share, only time will tell if the portfolio it is accepting is sound. And lucky.

Other market players are redefining this activity for themselves too. The four public sector general insurers are learning to place their own programmes outside India directly to the Swiss Res or Munich Res of the world. So are the fledgeling private sector companies.

Going by their impressions and the interest shown in expanding in the market by Swiss Re and Munich Re (in the form of an alternate stand at this point, asking that they be allowed to operate in India as a branch rather than as a joint venture with an Indian partner) a promising buildup of business seems to be in the offing.

Some factors emerge in informal conversations with companies. The larger companies have a wider base to place with reinsurers who are familiar with their portfolios, underwriting standards and past claims ratios. The new companies are making up for their infant portfolios with better information and the sharing of it.

There are many issues to be grappled with in this area of reinsurance, which actually defines the profitability of a direct insurer. Market entry related issues like structure – which has been defined already in the statute books but which is being reopened for debate by prospective market entrants – will have be decided based on market needs but correlated to the requirements of the economy and its development plans as a whole.

Another point is the compulsory cession of 20 per cent of all business to the National Reinsurer, GIC. This is being looked upon as an anomaly by most direct insurers. But there is an upside too. They give away 20 per cent of their Motor portfolio, which must surely feel good!

> **Then there is the question of reinsurance for crop insurance, which when it achieves its potential in India, will have reinsurance needs that are tremendous.**

But the GIC is the one at the receiving end on this issue and, as it rightly says, let things be made clear if compulsory cession is going to be done away with (or shared with future reinsurers entering the market) so that "we can plan our capacities".

As it is they are unhappy that they have been made to create capacities which are being ignored beyond the 20 per cent cession. While IRDA holds that Indian insurers should first exhaust Indian reinsurance capacity before placing their business abroad, the latter argue that they would do that if GIC retained these placements on its net account.

GIC is faced with larger challenges that it must surely start preparing for. It has lost the crop insurance portfolio with the advent of Agriculture Insurance Company of India (AICI). It manages and shares about 30 per cent of the risk in the Terrorism Pool and has now mooted an earthquake pool as well.

A Motor pool could be looming somewhere in the background with the Justice Rangarajan Committee having suggested quarantining of the portfolio. Such a 'festering wound' as GIC top management admit in private conversation, cannot be managed without State support, or better still a cess on vehicle fuel sales.

Then there is the question of reinsurance for crop insurance. Commercial crop insurance is being eagerly awaited with AICI's plans but if and when this protection achieves its potential in India, its reinsurance needs would be tremendous, especially as it would include natural peril, disease as well as price risk covers. More so because reinsurance for crop related covers is not available in the global market in any reasonably wide manner.

If all farmers (leave alone plantation farmers) were covered, a move up from eight million farmers today to 100 million farmers, and other rural business also thrown in, we may well find the GIC called upon to take on the entire reinsurance burden aided by its crop cell specialists who have chosen to stay behind!

The future sounds promising to Indian reinsurers and that is evident by the interest being shown by the reinsurers who have been silent hitherto. It would be interesting to see how the GIC evolves and grows to find its own place in what must surely be a competitive market place 10 years hence, as also those who may enter the market anew.

Whither Indian Reinsurance?

G.V. Rao

The world leaders in reinsurance are gathering in New Delhi in the second week of March 2004 to discuss the future developments in reinsurance trading in the Asian Region. The extent and type of financial security and the relative costs at which the global reinsurers are now prepared to offer reinsurance to the primary insurers in this region in a changing uncertain global environment, will be debated.

The cost of risk, the availability and extent of reinsurance covers and market security or the rating of reinsurers have become issues of great concern to the primary insurers. The recent failures of quite a large number of insurers and reinsurers and the downgrading of quite a few others have been attributed, according to detailed surveys carried out, to management failures to risk manage scads of variables including formidable externalities concerning the global operative environment.

Having to respond to claims neither expected nor intended to be covered (terrorism) for which inadequate or no premiums were collected have shown quite a few managements of insurers / reinsurers in poor light.

This article seeks to examine the recent changes in the world reinsurance markets with particular reference to how they have affected the Indian insurance market and what the future portends are likely to be in the context of continuing changes here and abroad.

Reinsurance and globality

Reinsurance has always remained a global business of interdependence with a majority of large-sized and mega local risks reinsured in markets outside their location particularly in Europe and the UK. Adequacy of reinsurers' capital and surplus, underwriting expertise based on evolving risk models, PML assessments of mega value risks, studies on country specific risks, tracking claims experience of risks accepted based on global data, futuristic projections of likely losses man-made and nature dependent, assessment of trends of past and future course of natural perils like floods and earthquakes due to climatic changes have all formed important sources for rating purposes and for fixation of terms and conditions of reinsurance covers.

The recent events post 9/11 have however shown that All the Expertise and experience so far acquired by reinsurers have proved to be inadequate to successfully manage the global reinsurance business. With investment income from stock markets dominating the decade of the nineties, reinsurers pursued objectives outside their core business. The post 9/11 situations were traumatic proving almost all the reinsurers wrong in their business assumptions and wiping out a capital of about $ 200 billion or so out of an estimated total of $ 700 billion. The incoming fresh capital to replace it is estimated at about $ 30 billion, hardly what was expected despite the hardening of rates.

> Primary insurers are now seeking non-proportional excess of loss covers and facultative placements for many risks. This puts greater pressure on primary insurers to improve their underwriting skills.

The investment community is shying away from providing capital to reinsurers as it perceives the balance sheets of reinsurers as 'encumbered' due to uncertain provisioning of losses apart from the nature of the business. The sustainability of profit generation by reinsurers to inspire confidence in investors is proving to be a daunting proposition.

While the respective Governments regulate their domestic markets, reinsurers operating on a global scale are not regulated, and are subject to evaluation only on the security rating grades the international rating agencies give them.

Not only have the recent developments caused reinsurance capacity to become scarce, leading to hardening of the insurance rates and terms in the global markets, but the downgrading of the financial security ratings that many reinsurers hitherto enjoyed has played an unsettling role in the reinsurance scenario, leading to greater uncertainty in the availability of reinsurance covers, its relative costs and financial security of reinsurance providers for many primary insurers. The market turbulence thus generated is still to settle down.

Reinsurers, dealt a powerful blow by the recent events due to huge losses and downgrades, have begun to rethink on the risk management of their acceptances by more stringent scrutiny of underwriting information, insistence on more transparency of disclosures, improved methods of computing accumulations, putting limits on their future losses, enhancing claim deductibles and imposing short tenure cancellations etc on the offers of reinsurance they receive.

The availability of proportional treaties, popular among many primary insurers, has become scarce with reduced reinsurance commissions. Primary insurers are now compelled to consider seeking non-proportional excess of loss covers and facultative placements for many risks. These initiatives are meant to put greater pressure on the primary insurers to improve their underwriting skills to raise the rates for insurance covers they offer and to rethink terms and conditions of the initial acceptances.

The liability market in particular has been the worst hit. It is a market with a limited number of participants and an even a smaller number of potential leaders. It has seen rate

increases and reduction in coverage more substantially than other portfolios. Cover for terrorism is almost extinct and covers for nuclear, biological and chemical attacks are non-existent.

The last two years since the 9/11 have witnessed a revival of the stock markets and the global scenario in respect of occurrence of natural and man-made disasters has seen fewer major losses, improving the financial performance of reinsurers. But yet the reinsurance markets hit by liability losses of asbestos, Directors and Officers Liability and under provisioning of losses due to the earlier period and losses on the stock valuations continue to struggle for solvency and acceptable ratings from rating agencies. The number of reinsurers in the US market has dropped from 112 in 1980 to 30 in 2003. During the same period the Policyholders' Surplus has risen from $ 3.5 billion to $ 45 billion as investors earlier believed the reinsurance business in US tobe profitable. The loss reserve developments have, however, had an adverse impact on their investments.

Reinsurers are now tough in their bargaining stance. Collectability of reinsurance recoveries from a few reinsurers is proving problematical. The non-performance of reinsurance is an aspect that a primary insurer has to confront apart from the financial soundness of the reinsurers. The earlier pleasing "bedside manner" of reinsurers has almost disappeared and they are demanding access to the underlying risk profile of primary reinsurers. The contract language of reinsurance is being literally interpreted. Continuity of reinsurance arrangements and reinsurers' willingness to maintain relationships can no longer be taken for granted.

How have these harsh global realities impacted the Indian market? With a pronounced tariff structure for substantial reinsured business how did it cope?

Indian Market

The Indian market, shielded as it is by a strong tariff structure has escaped the global rate increases and other restrictive regimes of conditions at the customer levels but the hardening terms imposed by reinsurers have affected the margins of the primary insurers.

In not responding to these developments and wanting to compete more vigorously for domestic business, the insurers have not only dropped their margins but are operating at costs higher than what reinsurers are reimbursing them.

This trend of short charging themselves in terms of margins for the sake of building premium volumes speaks for the wrong priorities the insurers in India practice.

> **The trend of short charging themselves in terms of margins for the sake of building premium volumes speaks for the wrong priorities the insurers in India practice.**

Reinsurance management at the level of primary insurers has long been a neglected area. The responsibilities for reinsurance placements were taken over by the GIC in the pre-liberalisation era. Reinsurance management either at the GIC level or at the level of primary insurers was based more on placement of reinsurance covers on the profitability of the business ceded rather than in working out appropriate reinsurance programmes based on data collection and its evaluation at a professional level.

Accuracy of data and the timeliness of its collection may have improved slightly but it is still less than what an international professional would expect. The Indian insurance market in terms of professionalism and expertise is considered still underdeveloped and not yet mature. Not only in data collection but also in terms of risk assessments and building risk profiles and their presentations, it has still a long way to go in the international arena to get professional recognition.

The Indian market, constrained as it is by tariffs, is now regarded as a less than satisfactory reinsurers' destination as the present tariffs are considered inadequate from the reinsurers' perspective. Lack of collection of timely data due to insufficient computerisation of insurers' systems has not helped the situation either. Though India does claim to have a pool of talented insurance professionals by qualification, it does not have expertise in the field of reinsurance or in risk management techniques of underwriting even at the primary level.

Indian insurers are also regarded as tough bargainers for rate reductions on a seemingly endless quest without making it clear what it is that would satisfy them. Nor do they negotiate terms based on expertise or logic.

The Indian market has so far utilised brokers, domestic and international, essentially for placement of reinsurance rather than to leverage their talent for suggesting acceptable programmes. The national retention capacity available is not fully utilised and it is progressively dropping. The new private players have not begun to raise their retentions despite being in business for three years. They are acting more as fronts for their promoters by retaining less for their net accounts in Fire and Engineering portfolios.

Facultative placements are placed outside India without exhausting national retention capacity available. The game of competition is played with a destructive element in mind and not

for the primacy of the consumer. There is a greater need for collaborative efforts among the primary insurers and the GIC, the national reinsurer. They need to forge a better reinsurance market in India. Lack of leadership and adversarial operation among the players is evident at the market level.

Though India is prepared to give a licence to other reinsurers to open shop here, so far no major reinsurer has shown interest in it. It is understood that Munich Re and Swiss Re are prepared to open branches but do not wish to form companies. India has to sell itself as a reinsurance destination closer to Africa and Asia in terms of its location, its laws, and the availability of professional talent, business and office acumen and for other business opportunities.

GIC, designated as a national reinsurer, has still not reconciled to the loss of its supervisory power over the public sector general insurance companies. Marketing reinsurance needs brokers and account executives and not only technical officials.

Availability of reinsurance capacity is no substitute to acceptability as a reinsurer. Nor is an acceptable rating by rating agencies a market promoter. Reinsurance is still a relationship-oriented business as between two partners and it is this spirit that GIC has to interact with its customers. GIC needs to strengthen its position before another reinsurer sets up shop here. It should more actively cultivate the Asian and African markets.

Obligatory Cessions

The Insurance Act, 1938 provides for obligatory cessions to the GIC that is currently 20 per cent of every risk underwritten in India. This has enabled more retention of reinsurance within the country and has enabled GIC to emerge as a dominant reinsurer in the Asian region.

With liberalisation of the market and competition as its main plank there is now a rethink on the need to impose cessions as obligatory. The Expert Committee on remuneration to Brokers has recently recommended that the obligatory cessions should be brought down progressively and be replaced by voluntary arrangements.

It is likely in the near future for this to happen and both the primary insurers and the GIC need to make their business plans taking this factor in to account.

Detariffing

With the insurance market liberalised, there is a felt need to do away with a price regime of the tariff structure. It is not clear yet how the GIC that takes in obligatory cessions and the international reinsurance markets would view such a scenario. Will the rates go down in India because of competitive pressures? Will it affect the primary insurers significantly by reinsurance capacity becoming scarce or their margins dropping? It is difficult to speculate.

> India has to sell itself as a reinsurance destination closer to Africa and Asia in terms of its location, its laws, and the availability of professional talent.

Conclusion

With the turbulence in the international markets unlikely to stabilise for another two years, even if there were no big losses, the Indian market needs to address itself more seriously to the reinsurance model it wishes to adopt to improve market cooperation and enhance national retention capacity by cooperation and by formation of pools. The private players with a miniscule capital of Rs. 100 crores and no surplus will take years to improve their retention levels. Competition for market business without the spine of adequate retentions will prove self-defeating, as they will depend on the sweet mercies of reinsurers and their promoters for years to come.

The public sector insurers need to use the instrument of reinsurance to better understand of their risk profiles for generating improved operating profits and for enhancment of retentions. Designing excess of loss covers in respect of profitable business needs expertise and they should not hesitate to seek professional advice from reinsurers and brokers.

The author is retired CMD, The Oriental Insurance Company Ltd.

GIC: We also Reinsure...

- After the Terrorism Pool , it's time for Earthquake

P. B. Ramanujam

Terrorism – Vis Hominis

The indelible impact of the 9/11 horror on the Indian insurance market was the abrupt and unceremonious withdrawal of international reinsurance protection to Indian risks.

As direct insurance for terrorism peril was governed by tariff regulations, insurers are precluded, by implication, from denying cover. Having granted this cover, they have to fend for themselves as they could not get protection from abroad as it just not available the way they wants.

While this anomalous situation continued for a year or two the Regulator relented, finally, and based on the market consensus, it was agreed to set up a Terrorism Pool in the Indian market.

The four public sector general insurance companies took a lion's share in the pool and private companies assumed a relatively miniscule share having regard to their technical and financial capabilities.

The Tariff Advisory Committee (TAC) stepped in not only to stipulate minimum eligibility norms for granting covers but also to put a cap of Rs.200 crores per risk, per location. The General Insurance Corporation (GIC) was appointed Manager for the pool and, in addition, participated therein to the extent of over 28 per cent.

Paraphrased, while GIC did not have any stake at the underwriting level, it willingly gave its shoulder to bear, in the event of named occurrences, losses to the extent indicated.

As luck would have it, there were no major losses and the pool has been able to build up its corpus to the extent of about Rs.350 crores which is growing. GIC, deferring to the wishes of the insurance market, had also created an optional facility to those direct insurers who sought higher cover limits to the extent of about Rs.500 crores, of course, at a level of price prevailing in the international market.

Now that the pool has been working satisfactorily with a robust corpus, it is seeking to enhance covers to one and all, subject to the approval of the IRDA.

Given the trend of nominal claims experience, coupled with Indo-Pak relations easing, higher limits of covers could be thought of. GIC has, thus, made a virtue out of necessity. In three to four years, *deo volante*, the Indian insurance market need not look to foreign insurers' support for terrorism cover in individual risks. What is a loss to the foreign market is a gain to India.

Earthquake – Vis Major

Like the terrorism peril, earthquake is also an optional peril cover under the tariff policies. Based on seismological studies, TAC in consultation with the Geological Department of India and other related institutions, has developed tariff classification of earthquake zones according to relative earthquake propensities.

> The gravity of random occurrences involving catastrophic loss has not dawned on the Indian market yet.

This classification, however, is not based on long term experience so as to re-affirm the correctness of premium collected under the earthquake policies. The companies have been granting covers, in accordance with the tariff, based on the comfort of reinsurance protection from GIC. GIC having enjoyed a monopoly status and having also been the presiding deity of the TAC till recently, could not but grant the reinsurance for earthquake perils to direct insurers. It has its own reinsurance protection on Excess of Loss (XL) basis.

The Indian market having enjoyed the benefit of the law of large numbers, monopolistic hegemony, Government control and support and huge financial resources at its command did not make enough efforts at an analytical examination of the impact of a potential/ portentous loss occurring. Should a loss occur, the Government was there to lend its hand in support.

To be fair to GIC it did attempt to undertake a catastrophe (Cat) mapping exercises by calling upon the direct insurers (PSUs) to indicate the pin code of the location of the risk in each policy and accordingly, track accumulation of total exposures based on the pin codes which would be useful for analysing loss potential from the earthquake zone point of view.

However, the enormity of such an exercise, covering the length and breadth of the country, precluded the companies from carrying out this job. The gravity of random occurrences involving catastrophic loss has not dawned on the Indian market yet. Now that the situation is different what with the regulatory mechanism in place and private operators in full flow, it is time to take a look at the situation afresh.

GIC's exposure on various risks are as follows :

1. GIC, under obligatory cessions accepts 20 per cent of each and every policy issued by direct insurers, subject to certain quantum restrictions in the case of Fire, Hull and Engineering policies. The accumulations could be stupendous under this arrangement.

2. GIC has been participating in surplus treaties of companies and also in market surplus treaties at various levels/ percentages. This adds to the exposure profiles of GIC.

3. For large corporates and peak risks, GIC has been granting reinsurance Facultative covers even under non-tariff policies for the simple reason that direct insurers cannot afford the price of reinsurance protection,

especially for earthquake, from abroad. To cite a typical example, in the mega-petrochemical policies of one of unit alone the total exposure of GIC would be around 70 per cent of Rs.26,000 crores (Rs.21,000 crores in Property and Rs.5,000 crores on Loss of Profit (LOP).) If an earthquake should occur in that area where the petrochemical factory is located, not only will the GIC have to pay 70 per cent of Rs.26,000 crores but it would also incur losses on its other exposures in that locality which are placed with GIC under Obligatory and treaty cessions. Thus, all in all, this is a tinder-dry situation with a low flash point. GIC is sitting on a silent volcano. Though till today there has been no eruption history of great magnitude, random occurrences cannot be excluded. Should, *Deus Avertat*, one such earthquake. occur even companies four times the size of GIC would not be able to pay claims.

While GIC has arranged reinsurance protection in respect of property covers on Risk XL basis to the extent of Rs.1,500 crores which is based on Probable Maximum Loss (PML,) it has also sought to obtain additional covers to the extent of another Rs.1,500 crores. (It also secured reinsurance protection for Cat perils, including earthquake, to the extent of Rs. 1350 crores). While this cover is amply adequate in respect of Fire and Explosion perils for which PML assessment has been done scientifically, even thumbrules of PML assessment do not hold good for Cat perils.

This is an anomalous situation as GIC, on the one hand, cannot refuse reinsurance protection being the sole Nnational reinsurer, acting under the dictates of IRDA which states that capacity of GIC should be utilised by the direct insurers, on the other hand, paradoxically it has not been able to obtain full reinsurance protection for itself from abroad. If such covers are available, restrictive limits or caps are imposed. GIC is, thus, caught in a cleft stick.

The only solution to this explosive, tinder-dry, extremely delicate situation is to form a market pool for earthquake covers alone. This will ensure that, India being seismic prone, corporate houses are not deprived of earthquake covers. It will also mean that GIC is also spared, at the same time, of exposures to hazards of facing a holocaust and thereby the mortification of not being able to settle claims. The pool, of course, must have the following protection/ facilitation.

1. The tariff must be suitably amended to put an overall cap while granting covers to the direct insurance covers.
2. GIC can participate therein to the extent of say, 30 per cent apart from acting as its Manager.
3. Cat reserves must be created which should have a tax benefit.

An insurance pool operates on the principle of *'Conjunctis Viribus'.* Formation of an Earthquake Pool will eventually result in distinct, tangible advantages to one and all.

4. Investments made out of pool funds should have tax exemptions.
5. In respect of income and capital gains, the methodology of utilisation of Cat reserves, the manner/ quantum/time etc. have to be exclusively laid down by IRDA.

Like the Terrorism Pool, Member, IRDA could be Chairman of this pool trust, while GIC can manage the day to day affairs including audit etc.

The Pool can arrange suitable reinsurance protection from abroad on XL basis.

An insurance pool operates on the principle of "*Conjunctis Viribus,*" formation of an Earthquake Pool will eventually result in the following distinct, tangible advantages to one and all :

a) Despite non-availability of reinsurance protection, direct insureds will continue to enjoy the benefit of insurance protection though subject to certain limitations.
b) Insurance companies, especially the smaller and younger ones can continue to offer this cover to the insureds while at the same time, not being exposed to the disastrous consequences.
c) The National Reinsurer hitherto was carrying, like the proverbial Atlas, the entire burden on its shoulder. The pool considerably lightens the burden in as much as the National Reinsurer can participate as well as manage this collectivisation process, on a market basis.

In view of the pooling facility, reinsurance protection on XL basis may be available at higher levels rather than GIC obtaining protection at the individual level. The pool, progressively, based on the claim experience, can gather momentum and its growing size may in due course, enlarge its capacity.

There may be precious saving of premium/ foreign exchange and also reduction in abject dependence on the foreign reinsurance market. In due course, even for the XL protection dependence can be reduced. Finally, based on this experience, as India is aiming to achieve a reinsurance hub status, it may offer the facility of pooling such perils at the South East Asian or Pan-Asian levels.

The author is Managing Director, General Insurance Corporation of India. The views expressed are his own.

Reinsurance in 'Shining India'

Sanjib Chaudhuri

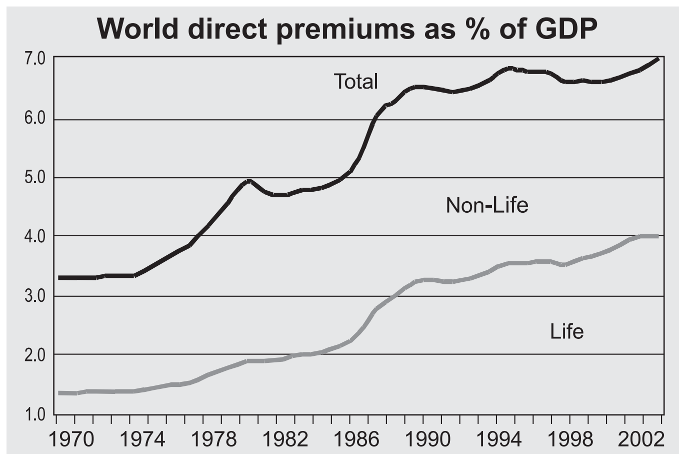
Insurance - it's economic importance in India

India has already claimed its position in the map of fast growing economies of the world and is marching ahead, though rather slowly, towards globalisation in the true sense. More importantly, a significant portion of its huge population is increasingly recognising the 'feel good factor' and becoming self confident as has been revealed by various pre-election media surveys.

Whereas the importance of insurance in this growth process of the Indian economy could only be repeated, this article deals with some proven solutions as to how reinsurance could best complement the growth of insurance and, in a broader sense, the Indian economy.

The graph below depicts how during the last three decades global insurance penetration as a percentage of the gross domestic product (GDP) has more than doubled from around 3.5 per cent in 1970 to 7.3 per cent in 2002. The insurance sector thus has grown more strongly than the overall economy.

This is especially true for life insurance, where social security reforms among others resulted in a continued boom in life assurance and pension products. This is also true for non-life insurance, where increasing standards of living and rising property values – but also rising global loss trends (due especially to a rise in complexity, natural catastrophes and man-made disasters) – fostered premium growth above GDP growth.



Economic development in emerging markets like India requires the use of large capital resources for financing infrastructure projects, production facilities etc. As these projects need risk management and insurance for a whole range of risks, the protection offered by insurers plays an integral part in the development process and thus fosters economic growth. Moreover, the capital needed is partly accumulated via the insurance industry (especially life insurance) through the collection of premiums. Insurance therefore also supports the establishment of financial markets in emerging markets.

In order for insurance to deliver these tasks to society in the best possible manner, the way the insurance industry is organised and the way it functions are of special relevance. A key element in this regard is the efficiency of the insurance sector. An efficient insurance industry offers risk-adequate and cost-attractive protection against risks, and this also leads to a fair assessment of the economic value offered by insurance to society.

> Today, India's industry and the general public have a choice of insurers and India's insurers in turn need a choice of reinsurers!

The following aspects play a key role if the beneficial effects of an efficient insurance market to society are to be felt:

Detariffing and reasonable market competition

Functioning markets play an important part in enhancing the overall efficiency of the insurance sector by advancing transparency and by disseminating know-how (e.g. best practice standards). An ample degree of reasonable competition is a prerequisite for a functioning market. Therefore, competition helps to make insurance work efficiently. In addition, in this market environment the expertise and know-how of insurers to price in a risk-adequate way will finally make the need for tariffs obsolete.

In this context, supervisory and regulatory authorities have a natural role as a safeguard against adverse market trends detrimental to the economy as a whole but also to protect the interests of consumers. If society as a whole is to benefit, however, there has to be a clear distinction between meaningful regulation and over-protection designed to preserve certain vested interests.

Insurance and (international) reinsurance as partners

Insurance and reinsurance complement each other naturally in providing risk protection to society. By its very nature, reinsurance is a truly international business, since reasonably managing the risks ceded by direct insurers requires making use of diversification advantages through global risk spreading.

International reinsurance, based on its worldwide experience, is also strongly transferring know-how to domestic insurance markets that thereby can participate in the positive dynamics of global market trends. Through the effects of international reinsurance diversification, international reinsurers are able to offer cost-attractive security to domestic insurance companies, providing them with access to a global market worth around $ 155 bn in reinsurance premium volume (in 2002).

How does this relate to the Indian insurance market?

Insurance in India has undergone significant change during the last years with increasing growth in premium. However, in an international context, the Indian insurance market still has significant potential, as especially in non-life business the penetration ratio is comparatively low.

Therefore, India can expect to see its insurance sector grow further in the next years. As a result, this will continue to support overall economic development and especially investments.

However, the development of the primary insurance market needs significant steps towards liberalisation (e.g. a non-tariff market environment) as well as an efficient reinsurance arrangement (e.g. no compulsory cessions).

Why India will benefit from the presence of international reinsurers

Today, India's industry and the general public have a choice of insurers and India's insurers in turn need a choice of reinsurers! Fair competition between local and foreign reinsurers will enhance the services provided and thus benefit the local insurance industry.

The presence of international reinsurers is necessary to

- Make additional capacity available
- Relieve Indian insurers of partial and/ or entire risks that are too large for their own capital base
- Provide Indian insurers with proven international expertise in assessing complex risks and handling large, complex claims
- Support local and foreign direct investment
- Transfer international insurance and reinsurance-specific know-how to the local market

Opening up the Indian market to international reinsurance in a selective way under the control of the authorities (e.g. full market access to those reinsurers with a long-standing reputation in India), would thus prove beneficial to the Indian insurance market as such.

"Branch" for reinsurers - the best solution

Issuing a branch license to selected international reinsurers offers India's insurance industry the best of both worlds:

- On the one hand, an entirely unregulated market is not in India's best interest.
- On the other, a local (joint venture) reinsurance company – no matter how well capitalised – will always be only a part of an international reinsurer.

Only a branch office offers

- Full access to the international reinsurance market
- Full access to additional capacity
- Full access to international know-how and expertise

Indian authorities can be selective in deciding which reinsurers are to be granted licenses for a branch office.

Opening up the Indian market to international reinsurance in a selective way under the control of the authorities would prove beneficial to the Indian insurance market as such.

Indian authorities can control such branch offices, their management, their capitalisation and their business practices according to Indian regulatory requirements.

The freedom to conduct their core business on the basis of their own expertise and business model – i.e. not in a joint venture – will encourage international reinsurers to invest capital in India, transfer know-how and provide training and employment to local personnel.

Reinsurance is by its very nature a global business. Branch offices of global reinsurers benefit from their international spread, which in turn helps to reduce the cost of reinsurance.

The branch concept is tried-and-tested internationally, and has proven to be in the best interest of the insurance industry in many previously fully regulated countries around the world.

Munich Re in India

Munich Re can look back over five decades of dedicated cooperation with the Indian insurance market and its participants.

Since 1953, Munich Re has been party to a first partnership agreement designed to develop new insurance and risk-assessment concepts in engineering, followed by other classes of insurance.

Since 1973 Munich Re has enjoyed the privilege of close cooperation with the General Insurance Corporation (GIC) and its four subsidiaries, as well as with the Life Insurance Corporation (LIC).

Since the opening of the Indian market in 2001, Munich Re has been building up business relationships with select private and public sector insurance companies.

In five decades, Munich Re provided exclusive scholarships for high potential Indian management trainees. Hundreds of participants at numerous insurance seminars and workshops were trained in Munich and locally in India.

For more than five decades, Munich Re's representatives and experts have been committed to the Indian insurance industry and identified with the subcontinent.

In 1998 Munich Re established the first consultancy office in Mumbai, replaced later on by representative offices in Kolkata and Mumbai.

In 2004 Munich Re is establishing a service company to further strengthen its presence in the Indian market.

Munich Re, the world's leading reinsurer has been a reliable partner to India's insurance industry for over 50 years and is sincerely looking forward to establish it's Indian Branch in the happening process of 'India Shining'.

The author is Chief Representative, India Representative as Office, Munich Re.

One World of Reinsurance

Bharat J. Boda

We know a risk when we see one. We seek the comfort of being safe and playing safe. The best safety we achieve is to transfer the financial burden of loss from a fortuitous event. The insurer receives such transfer.

Insurers receive risks from across India and build up a cumulative exposure equivalent to a potential financial catastrophe! In turn they reach out to each other to spread and share the accumulated exposures. Their concerns are claims paying ability and solvency as a going concern.

In reaching out to each other, insurers spread and share their risks across a country's borders. Their efforts result in a local risk directly and indirectly protected by the world insurance community. Reinsurance makes this happen and to reinsurance the world of risks is one.

Prior to liberalisation, India was sharing a premium equivalent to $ 200 million annually on a gross Indian business of $ 1.6 billion. In the last two years more premium is shared with overseas insurance / reinsurance companies by way of reinsurance in view of the new insurance companies' lower financial ability to keep more of the risk to themselves.

The restructuring of the General Insurance Corporation (GIC) and its emergence as a national reinsurer has created new opportunities in reinsurance management for the country in respect of the terms of reinsurance which are more automatic and financially favourable to the Indian insurance industry. This year the GIC has enabled an increase in automatic reinsurance facility to Rs.3,000 crores of value for any property / project insured in India. For values not supported by this limit the need is to find insurance / reinsurance companies overseas who will be willing to receive and share the excess of risk.

There are certain types of risk that need concerted support and sharing in the world insurance market. War is one such risk. This risk is addressed in world insurance interest by the International Underwriting Association and guidelines for rate and cover are provided. This becomes a basis for reinsurance rating and cover to insurance companies.

When the terrorist attack took place on WTC on September 11, 2001, the world reinsurance reaction was to immediately withdraw the cover in respect of risk of terrorism prospectively. India suffered the consequence of this withdrawal but the Indian Government provided interim support.

The world business community sought insurance for this exposure as an additional contract and for a separate high premium. The IRDA and GIC found a solution for Indian property owners by creating a Terrorism Pool to protect against losses from acts of terrorism upto Rs.200 crores in any location in India. GIC stepped forward to assist the Terrorism Pool of the Nepalese market as a reinsurer. War and terrorism risks are examples of need for risk sharing through world reinsurance support.

Offshore oil exploration risks, launch of satellite, electronic banking and depositories, call centre and BPO operations are examples of high property value and legal liability exposures. Agriculture and farm insurances are examples of widespread catastrophic loss exposure.

Many of these Indian businesses simply cannot be fully insured locally or through support of automatic reinsurance arrangements. These require to be informed to insurance companies overseas on a case by case basis for building up reinsurance support. Thus a risk sharing reinsurance programme is stitched and put in place to cover these high exposures. At the business level what is seen is just one policy document from an insurance company. Behind this document insurance / reinsurance companies worldwide sit reinsuring the risk.

> It is expected that a new trend of insurance companies providing mutual reinsurance support would emerge.

It is interesting that what goes out goes around, and even comes back. This happens when reinsurers retrocede what they do not retain. Thus acceptance of risks from an insurance company gets reinsured again... and again with the world's reinsurance companies – called retrocessionaires. This constant global interchange between reinsurance companies underpins the unifying nature of world reinsurance.

In as much as we aim to spread and share risks out of India, the Indian insurance companies are permitted to reciprocate by receiving and sharing the risks located worldwide. At present the GIC alone is actively pursuing this rationale. In fact the GIC is reaching out through new offices and relationships to receive more risks by way of accepting reinsurance from the world's insurance companies. It has spread its wings to London and Moscow and is seeking to actively spread further.

TanzIndia and the proposal to set up operations in Dubai to cater to the Middle East market are specific instances. One can see GIC working towards integration with the underlying community of world reinsurers. GIC is also moving into the Indian market promoting its reinsurance support services. It is actively seeking life insurance companies to utilise its services as a reinsurer.

There is an emerging compulsion in the Indian market for the local insurance companies to share through reinsurance local Indian risks prior to their being reinsured overseas. GIC has supported and provided its capacity for this.

It is expected that a new trend of insurance companies providing mutual reinsurance support would emerge. This opens up new possibilities in local inter-insurer facultative market and deepens the reinsurance capabilities of the Indian insurance market.

The future holds potential for emergence of new reinsurers on Indian soil. Leading reinsurers such as Munich Re, Swiss Re and Berkshire Hathaway are exploring the feasibility of setting up their business in India. It appears that the world of reinsurance is converging upon India as a new centre and a hub.

The author is Chairman, J. B. Boda Group, Mumbai.

What We Must Do

K.L. Naik

Indian Market's liberalisation from April 1, 2001 made the General Insurance Corporation (GIC) the National Reinsurer. This date has unique significance because of the losses of the Gujarat Earthquake (January 26, 2001) and WTC attacks (September 11, 2001). GIC's emerging role as National Reinsurer stood this Test of Terrorism and soon GIC became the administrator of the Indian Market Terrorism Pool !

It is truly said that a loss due to a natural or a man-made catastrophe brings back sanity in rating, writing and underwriting risks.

IRDA's dream is being realised by GIC as national, regional and international reinsurer in the post WTC attack loss scenario of global reinsurances.

Insurers need capacity, reinsurers provide capacity. So reinsurance is creation of capacity. And capacity is coverage of all perils + confidence in security + continuity after a loss.

Today the Indian economy is set for speedy growth with 8.1 per cent in 2003-04 as against four per cent growth a year back ! Agriculture and industry, oil and energy, supply of gas, electricity and water - all sectors are growing fast. GDP growth for the year 2003-04 is expected to be 7.5 to eight per cent.

The insurance sector is the parameter of this growth and the reinsurance sector is the creator of capacity for the insurance sector.

Today after thirty four months since April 1, 2001, let us review the role played by the Indian reinsurance market.

Current reinsurance market scenario after WTC attack losses

Almost all global and regional reinsurers of the West have been weakened under the impact of the WTC attack losses which are around $ 80 billion. However, GIC as National Reinsurer has been affected for less than $ five million.

Crises of confidence and contraction of capacity have resulted in hard and harsh market conditions in global reinsurance.

More transparency is required in underwriting information.

Risks of sabotage and terrorism are excluded. Insurers of Afro-Asian markets face unacceptable limitations imposed by global reinsurers.

Underwriters who become undercutters of rates are asked to go 'back to the basics.'

GIC is now emerging as a viable alternative to provide capacity and quote for the reinsurance programmes of Afro-Asian insurers as leader. GIC also plays a significant role as supporting reinsurer.

GIC's Status

National Reinsurer : To receive 20 per cent obligatory policy cessions from all domestic companies and to have the right of first refusal on facultative reinsurances of all domestic companies.

Mission : To become reinsurer of priority for the Indian, Afro-Asian and global markets.

Philosophy : To build long term reinsurance relationships.

Financial strength : Net financial worth in 2002-03 was $ 683 million.

Capacity

$ in millions

Reinsurances	Capacity	
	PML	Sums Insured
Treaty	4.00	10.00
Facultative	20.00	50.00

Creative approach

GIC has supported the creation of a Terrorism Pool in Nepal acting as the Big Brother when global reinsurers left them.

Net Premiums of GIC in 2002/03 after retro protection cost

$ in millions

Reinsurances/ Markets	Net Premiums/ Contribution %
Domestic market	610
*Foreign inward	214
Total	824
*Asia and Middle East	56%
Africa	14%
# Rest of the World	30%

US/Canada very insignificant
* GIC maintains bottom line profit.

Future Challenges

The future is not to be predicted – it is to be invented with GIC's

- Innovative and creative approach
- Expertise and experience
- Aggressive approach for expansion Promptness in response
- Patronage of domestic reinsurance brokers

Besides the four public sector insurers acting as reinsurers, private sector professional reinsurers may enter the market.

Conclusion

- IRDA's dream of making India a reinsurance centre for Afro-Asian reinsurance is being realised.

GIC has to

- Cater to each company's reinsurance programme.
- Provide capacity to ECGC, LIC and Agriculture Insurance Company of India.
- Patronise training centres.
- Patronise indian reinsurance brokers
- Provide retro protection to the inward reinsurance portfolio of Indian insurers acting as reinsurers.

International reinsurance demands are to be satisfied by Afro-Asian reinsurance centre of the Indian Market.

The author is CEO, J. B. Boda & Company, Mumbai.

Life Reinsurance - A Perspective

Graham Watson

The Indian life insurance market displays many essential characteristics of an emerging vibrant and dynamic market – a relatively high level of awareness of life insurance, a growing pool of technical expertise (distribution, actuarial, underwriting, administration), and regulations that are not too onerous.

Notwithstanding its long history of growth and expansion, the competitive market place is only three years old. During this period the market has matured further, and has already seen innovations in product design, pricing and distribution approaches. The pace of change has been swift, and in some areas the market has become extremely competitive at a fairly early stage of market development.

Life reinsurers are playing an important role in the growth and dynamism of the Indian market. Reinsurers have been closely involved with all new companies in developing business plans, products and underwriting standards, and providing reinsurance support. By drawing on the experience in countries with more developed insurance markets, reinsurers are assisting insurers in developing and pricing products. Strong international reinsurance support will be essential for further development of risk products in India.

Global life reinsurance trends

New individual protection products in markets such as the US and the UK are heavily reinsured, whereas reinsurance is relatively underutilised by life insurers in Asian markets. A study by Swiss Re suggests that reinsurance cessions in Japan, the second largest life insurance market in the world, are just one per cent. China and India have cession rates that are estimated to be less than half that, and in Southeast Asia the rate is still a low five per cent.

Why reinsure?

An annual study was published by Mercer Oliver Wyman using a "shareholder performance index" to measure the relative midterm performance of the world's largest 400 quoted financial services companies, by indexing value creation with the amount of risk taken to achieve it. The study drew the following conclusions concerning the winners that will be of interest to us:

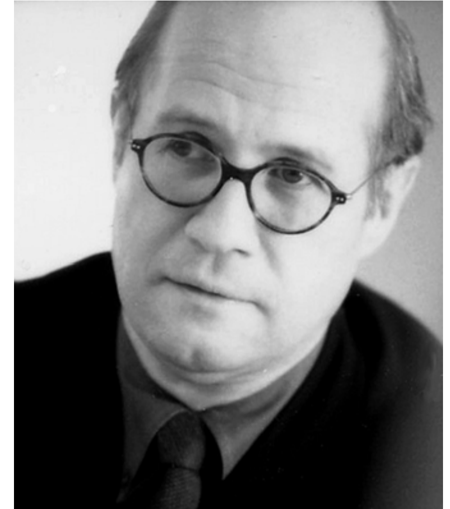
- They all have a flexible value-focused strategic outlook. They concentrate on their core competencies and are positioned to be able to use the best resources from other parts of the value chain in areas where they do not themselves excel.
- The winners are able to recognise value-growth trends and adapt their resource allocation and business model accordingly. These/are companies without heavy infrastructure and overhead, who utilise outsourcing, offshoring and smart vendor management to contain costs and improve speed to market.

> How can life reinsurers price the mortality so low? They do this by giving up future mortality gains of medical advances, improving lifestyle etc.

What does this mean for life insurers?

The functions and competencies that together comprise the value chain that is a life insurer can be outsourced to various suppliers. For instance, distribution to banks and brokers; underwriting to reinsurers; capital to banks and reinsurers; administration to third party specialists; and fund management to third party fund managers.

Of significance to reinsurers in established markets is the tendency to



outsource mortality. This is why life insurers in established markets use so much reinsurance.

Globally we are witnessing the dramatic impact of information moving at electric speeds. The consequence for life insurance premiums in established markets is that the sophisticated consumer, and broker, can easily select against the life insurer by age, gender, band, smoking and preferred status when choosing which product to buy, and from which company to buy it.

To stay competitive life insurers have outsourced their mortality and morbidity needs to reinsurers. Reinsurers consolidate mortality risk and have become experts at mortality pricing and risk management, and maximising returns for the risks taken. Most new business mortality risk is transferred to reinsurers. Of new individual protection sold in the US in 2002, 61 per cent was reinsured, in the UK that number was an estimated 75 per cent in 2003, and in Canada in 2002, it was a whopping 79 per cent.

In the US and the UK, over the past decade the price of mortality and morbidity reinsurance has reduced dramatically, as reinsurers have sought to improve the competitive positions of their clients, and, indeed, to attract new ones. Reinsurance rates for the mortality risk in the UK, for instance,

have fallen a staggering 30 per cent in the past 12 months.

In the UK, the US, and Canada, reinsurance rates for mortality have fallen to a point where it no longer makes sense for insurers to retain the mortality and morbidity risk. Indeed, because of the huge reserves required to support premium rates based on mortality assumptions which are below experience, life insurers cannot afford to retain as much as they did hitherto. Those that can afford to support their own business, can think of much better ways of using their capital than by tying it up to support business that is already on the books.

Are reinsurers under-pricing mortality? Absolutely not. For life reinsurers, mortality is their business. RGA has over one trillion dollars of mortality risk on its books (measured by sums assured) which gives us spread. We know what we are doing. And, like any other company, we have shareholders that won't be happy if we lose money, so we price risk to make money.

How can life reinsurers price the mortality so low? They do this by giving up future mortality gains of medical advances, improving lifestyle etc.

By reflecting these improvements in their pricing, they are implicitly locking in these mortality gains for the ceding companies who are passing off a large portion of the mortality risk to the reinsurer. The insurers' tied capital is freed up from reserve and solvency requirements to be used for other purposes, on a risk adjusted basis, at virtually no cost.

Additionally, this removes future income uncertainty for the life insurers and exchanges a variable profit stream for fixed profits. The ceding company is effectively immunised against the results of the business it is retaining.

In these markets, life insurers and reinsurers are therefore jointly optimising the use of global capital for spread of mortality and morbidity risk protection business.

These changes that have taken place in established markets will be seen in the emerging markets. Eventually, life insurers that will prosper will be those that understand what their strengths are, and those who stop trying to do everything.

Indian Scenario

India is underinsured, and there is a challenge for the industry and regulators to increase market penetration. There is almost a burden to justify the logic of opening up. Industry and regulators face a huge task of increasing penetration, with optimal use of capital – a commodity that will be in 'short' supply in a rapidly growing Indian economy. Life reinsurers can be, and should be seen as, partners in meeting this challenge.

> A lack of local presence, while increasing the cost of supporting the Indian business, also inhibits development of local talent, which in the long run can only benefit the Indian market.

I am tempted to ask the question – are reinsurers needed?

In India, the life insurance market has grown at over 20 per cent annually in real terms in the last five years, and the business of new entrants has grown at well over 50 per cent in the last two years.

While the focus is on top line growth, once a critical mass is achieved stakeholders are likely to ask the key question – what has been, and will be, the economic value creation moving forward? And companies that respond best to that question will emerge the long term winners in the Indian market. The value of reinsurance and reinsurers is likely to be better utilised at that inflexion point.

Notwithstanding the rapid growth in life insurance premiums in the past few years, life reinsurance premium has been relatively small. Retention levels are high compared to the average size of policies, and quota share treaties are rare.

Nevertheless, reinsurance premiums will grow with rising business volumes, albeit on a very small base. Under present regulations, it does not make commercial sense to set up operations in India, especially for a reinsurer like RGA that is focused on life. A lack of local presence, while increasing the cost of supporting the Indian business, also inhibits development of local talent, which in the long run can only benefit the Indian market.

Earlier in this article, I touched upon how the life insurance industry in established markets has benefited by outsourcing mortality to reinsurers. India, which is rapidly emerging as the outsourcing destination to the world, has the potential to move up the learning curve much faster within the emerging markets.

We remain confident. We see India operating from strength to capitalise on its large and growing foreign exchange reserves, to optimally leverage the local and global capital sources and balance sheets of insurers and reinsurers. The eventual winner will be the Indian consumer with easier access to world class products at future-ready prices.

The author is CEO, RGA International.

Give & Take !

- Reinsurance in India - Present and Future

S.R. Das

After the opening up of the insurance sector in In'dia in 2001, reinsurance of general insurance business is regulated by the Insurance Regulatory and Development Authority (IRDA).

In order to ensure that the reinsurance programme of general insurance companies are ready in time, the Authority stipulates that each company has to submit to the IRDA the reinsurance plan at least 45 days prior to commencement of the treaty programme (which is normally to coincide with the financial year commencement i.e. April 1) to the IRDA.

The advance intimation of the reinsurance plan may enable IRDA to examine the arrangement vis-à-vis the overall objective of reinsurance as set out in the regulation i.e. optimum retention of premium within the country, adequate balance sheet protection and also to provide necessary guidance, if required, for suitable modification in the programme.

Another provision of the Regulation is to ensure that the programme is fully placed in time and with the reinsurers as per guidelines and hence each insurance company will have to submit to IRDA a copy of the cover notes within 30 days of the inception of treaties.

The financial strength of reinsurers supporting the reinsurance arrangements is another factor which needs to be monitored and hence the reinsurer has to satisfy a minimum financial rating for the preceding five years by a leading international rating agency. We presume that filing the cover note will enable IRDA to monitor this aspect. The cover note will also provide an opportunity to IRDA to ensure that the domestic capacity has fully been utilised. According to us the domestic capacity for reinsurance is sum total of the following:-

- Lead insurer's and co-insurers' total retention.
- Obligatory cession to the National Reinsurer, the General Insurance Corporation of India (GIC)
- Utilisation of non-participating companies' net retained capacity
- Retained portion of surplus treaties by other domestic companies
- Facultative capacity

The retention of each company is mainly dependent on financial strength, premium and profitability of the portfolio and also the risk appetite of each company. Thus retention on similar risk and size may vary considerably between companies.

The second most important factor which helps to improve retained premium is to retain risk on PML basis instead of Sum Insured. This may help the writing company basis to keep a moderate share of large risks and protect retention through risk excess of loss. Such underwriting is common amongst Indian general insurance companies. In addition, to improve the retained premium by adopting underwriting on PML, the company may also reduce dependence on Surplus treaties and Facultative arrangements.

However as the PML is the underwriter's educated estimate, the methodology/ criteria may vary from company to company and hence it may be difficult to convince the participating reinsurers on PML underwriting.

It will be difficult to achieve desired premium cession on quota share while ceding risk on surplus basis. Thus such a provision has never been attempted by any insurance company.

Quota share reinsurance, which is the simplest and oldest form of treaty arrangement, is still being used by insurance companies even for established classes of business, which is not by choice but by compulsion. As per law each general insurance company is obliged to cede a desired percentage of premium and liability under each policy issued by them with a cap on monetory liability for various classes of business to Indian reinsurers.

This is an age old provision being continued in India. The utility of obligatory cession as a method of risk transfer is that it was not necessary to discuss premium retention considering the conditions prevailing prior to opening the market. As most practicing reinsurers have preached that the quota share treaty do not allow full utilisation of the capacity of writing companies, continuation of such form of reinsurance may have to be discussed.

On obligatory policy cession, one school of thought suggests that such cession must be continued to help the National Reinsurer to generate adequate premium base during the initial years which may help it to improve risk retention capacity over the years after which it may be gradually reduced. The reduction in obligatory cession will help the writing company to improve their retention.

Recognising the main objective of the country's reinsurance programme of retaining maximum premium within the market, the insurers may not be against obligatory cession to the National Re so long as their retention capacity is fully utilised for all risks.

However it is felt by most of the insurers that the existing provision of quota share obligatory cession on each policy may not allow the insurers to utilise their underwriting capacity fully. Thus, instead of quota share (a fixed percentage) the writing company may prefer obligatory cession on surplus basis after retention capacity is fully utilised for any risk.

The Insurance Act, 1938 has made provision for obligatory cession of risk on surplus basis for Fire but the insurer has to ensure that obligatory premium cession to Indian reinsurers is maintained at the desire percentage of gross premium for the class.

It will be difficult to achieve desired premium cession on quota share while ceding risk on surplus basis. Thus such a provision has never been attempted by any insurance company.

The National Reinsurer is not a new entity and has a strong financial base. It may not be necessary for it to depend on obligatory policy cession and it may be willing to accept the risks from the market on a commercial basis. However in order to ensure that the domestic capacity is fully utilised the insurers must offer surplus risks on compulsory basis to the National Re but acceptance by the National Re will be on the merit of each case. National Re

may not be happy to accept obligatory cession for some classes of business and obligatory cession in the present form for the remaining classes may not be liked by insurers. Hence the aspect of compulsory policy cession may need separate attention of the proper authority.

Inter-company cession (to utilise retention limit of non participating companies) is being practiced mainly by the public sector insurance companies to improve market retention. This tool will work well so long as parties involved have similar underwriting and rating philosophies.

While it works for tariff rated products it may not be in the interest of all parties in respect of non-tariff class of business or when the tariff is discontinued.

The concept of inter-company cession must be extended to other insurers and a common mechanism needs to be worked out to take forward the concept. This will help improve retention further, especially of tariff rated business.

Utilising domestic capacity (acceptance Treaty and Facultative are mainly from National Re) is compulsory for all reinsurance (Proportional Treaties, Excess of Loss Treaties and Facultative) arrangements before they are offered to the international market.

Market Surplus treaty is another vehicle to dispose of surplus risk by the writing companies after the risk has utilised Obligatory, Retention, Inter company cession and the writing company's Surplus Treaty. National Re retains the major share on Market Surplus Treaties to improve market retention. Generally a Market Surplus Treaty may be for those risks which have utilised the total market capacity (retention other than treaty cession) available for very large risks. But existing Market Surplus Treat is available for all risks beyond the writing company's own available automatic capacity.

IRDA has issued guidelines for use of quality overseas reinsurers by Indian companies and minimum rating level of the reinsurers by international rating agencies. This rating criterion is not applicable to the domestic reinsurer. For placement of the reinsurance some of the insurance companies have their own guidelines such as minimum rating (which is higher than the IRDA stipulation) reinsurers, maximum business that can be placed etc. If this system is adopted by most of the insurance companies, then domestic capacity may not be fully utilised.

If a company has to follow in toto all the provisions of the reinsurance regulations such as obligatory cession, placement of Surplus and Excess of Loss Treaty, and Facultative reinsurance with one reinsurer, it may lead to over dependence on one reinsurer and such a situation may not be in the interest of the company in the long run. Thus provisions for reinsuring within India may have to be reviewed.

A most frequently discussed topic is the monopoly of reinsurance, especially when insurance is open to competition. The question is whether reinsurance of Indian business is the monopoly of the Indian reinsurer?

It may be necessary for a detailed study whether there is a necessity to open the market to overseas reinsurers to set up a branch office or a separate subsidiary company only for Indian business.

Yes, monopoly to the extent that each risk will have to be offered to the National reinsurer before placing it with overseas reinsurers. There is nothing wrong with this provision so long as the Indian reinsurer keeps the business in his net account without resorting to retroceding the risks. Though there is no restriction on setting up of another reinsurance company, no joint venture company or Indian company has come forward to set up reinsurance operations, even after three years of opening of the market.

Overseas reinsurers have continued to provide capacity and protection to the Indian companies and the volume of business for them has also increased. Hence reinsurance of Indian insurance business may not be termed as a monopoly of the Indian reinsurer.

The objective and necessity of reinsurance is mainly to get capacity to write large risks and protection against large loss, product development, flow of international market news and improved risk management advices considering ever changing risk factors.

The first two services i.e. capacity and protection are currently available to the Indian insurers from the overseas reinsurers without much problem, other services such as product development, market information and risk management are now being made available through professional brokers and also joint venture partners of insurance companies.

It may be necessary for a detailed study whether there is a necessity to open the market to overseas reinsurers to set up a branch office or a separate subsidiary company only for Indian business. But in order to develop the regional reinsurance market there it will necessary to allow other professional reinsurers to set up offices in India. There are regional markets in Singapore, Labuan/ Kuala Lumpur and Hong Kong, and it may be necessary to study these markets before opening the reinsurance market in India.

The reinsurance broker is an integral part of most reinsurance transactions and, in order to control the activity of the Indian reinsurance broker, IRDA has set the rules and regulations. However no such regulation is applicable to the overseas reinsurance broker who is free to operate in the market and who, without any financial commitment or set up in India, is placing Indian reinsurance business in the overseas market.

Whether foreign or Indian, a reinsurance broker needs to be treated at par and should there be a common set of rules and regulations applicable to all. There are a number of views and, in order to provide right direction and to maintain discipline, it is necessary to study this aspect further.

The author is Executive Vice President, Aon Global Insurance Services Pvt. Ltd. The views expressed in this article are his own.

प्रकाशक का संदेश

पुर्नबीमा उस जोखिम को ले लेता है जिसे बीमाकर्त्ता ने लिया है। अपनी प्रकृति के अनुसार यह विश्वव्यापी व्यवसाय है। विभिन्न सीमाओं के जोखिमों को बाँटने के लिये स्थानीय बाजार की जानकारी तथा उच्च स्तर की तकनीकी निपुर्णता की माँग होती है और हाँ पूँजी की भी।

भारत, जब बीमा उद्योग का उदारीकरण हुआ तथा निजी व विदेशी पूँजी को अनुमति प्रदान की गयी जिसका प्राथमिक उद्देश्य संतोषपूर्ण उद्योग में प्रतिस्पर्धा लाना था। जिससे अर्थव्यवस्था में वास्तविक सुरक्षा की बीमा की माँग को पूरा किया जा सके। साथ ही उपभोक्ता संतुष्टि का सम्मिश्रण किया जाये। इसके आगे सामाजिक उद्देश्य भी थे। जिसमें ग्रामीण तथा शहरी क्षेत्रों में स्वास्थ्य बीमा का विकास तथा सामाजिक रूप से पिछड़ों को बीमा सुरक्षा प्रदान करना था। एक उद्देश्य आर्थिक लक्ष्य के रूप में भारत को पुर्नबीमा की प्रादेशिक धुरी बनाना है।

इस खोज में हम कहाँ हैं तथा कंपनियाँ क्या कर रही है? यह सभी विभिन्न प्रकार से आईआरडीए जर्नल में लेखों के संग्रह के रूप में इस अंक में आपके सामने है।

जबकि जीआईसी राष्ट्रीय पुर्नबीमाकर्ता के रूप में अपनी पुर्नपहचान बना रही है, बाजार नये व्यवसायियों की प्रतीक्षा में है। जिससे उसकी आवश्यकतायें पूरी की जा सके। विश्वव्यापी पुर्नबीमा कंपनियाँ अपनी रूचि दिखा रही है तथा प्रवेश के विकल्प सुझा रही है। अंतरराष्ट्रीय ख्याति प्राप्त कंपनियों द्वारा सुझाव दिये गये हैं कि वे यहाँ अपनी शाखायें खोलने के इच्छुक हैं। अपेक्षाकृत संयुक्त उपक्रम में किसी भारतीय साझेदार के साथ कार्य करने के। ऐसा करने के कई उच्च कारणों में निधि की सुरक्षा, क्योंकि शाखाओं को उनकी संरक्षक कंपनियों से तुलन पत्र के लिये समर्थन प्राप्त होगा।

जबकि हम नये व्यवसायियों के प्रवेश की प्रतिक्षा में है बाजार की आवश्यकताओं को अभी के लिये पूरा कर लिया गया है। जीआईसी द्वारा 20 प्रतिशत बाध्यकारी अध्यपर्ण समाया जा रहा है तथा विश्वव्यापी पुर्नबीमा कंपनियाँ पहले की तरह परिचालन में है तथा उन कंपनियों से संवाद बना रही है जो अभी बाजार में है। इसलिये नये व्यवसायियों के लिये तुरन्त प्रवेश के लिये कोई दबाव नही है जहाँ तक आज के बाजार की आवश्यकताओं का प्रश्न है।

लेकिन यह आवश्यक होगा कि उपयुक्त बाजार तथा विनियामक तंत्र पर सभी एक परामर्श पर आये जो बीमाधारकों तथा उद्योग के सर्वोत्तम हित में होगा। इसके साथ उद्योग सदस्यों तथा विनियामक के बीच सतत् संवाद हमें भारत को अगले कुछ वर्षों में एशिया तथा अफ्रीका की पुर्नबीमा गतिविधियों का केन्द्र बनाने में सफलता दिलवायेगा।

जर्नल का अगला अंक उस पर होगा जो हम सबके मस्तिष्क को उतेजित करता है। इसके केन्द्र में ग्राहक की अपेक्षाओं का पैमाना होगा। हम आशा करते हैं कि ग्राहक की आकांक्षाओं और आभिवृतियों पर ध्यान दिया जा सकेगा तथा आपको एक रूचिकर क्रमिक अभिर्भाव का वचन देते हैं।

सी. एस. राव

बट्टे से मुक्ति

एच नारयणन

रश्मि अभिचंदानी (न्यू लाइफ फॉर लॉ, आईआरडीए जर्नल, जनवरी 2004) के रूचिकर विचारों को बाँटने के साथ इसकी जरूरत है कि पुर्नजागृत, पुर्नपरिभाषित तथा काट दिया जाये बीमा अधिनियम 1938 के कुछ प्रावधानों को प्राकृतिक रूप से कुछ बढ़ते हुये विचार मानस पटल पर उभरते हैं।

एक प्रावधान जो इस काल में भ्रमपूर्ण है वह है बीमा तथा अभिकर्ताओं द्वारा बट्टा देना, समकालिक व्यवहारिक संसार में बट्टा एक शब्द के रूप प्रतिबंधित हो गया है तब वह भारत में था जब ब्रिटिश लोग भारत पर शासन करते थे। आज के व्यवसायिक वातावरण में बट्टा, छूट या प्रोत्साहन का पर्यायवाची बन गया है। बीमा उद्योग में विक्रय प्रोत्साहन मुक्त रूप से विपणन कलाकारी है। बट्टा शब्द एक ईश्वरिय शाप बन गया है।

यह रूचिक ही है कि हाथी के दाँतों वाली सीमा नौकरशाही ने बट्टे के ऊपर एक अजीब दृष्टिकोण अपनाया है। वर्ष 1938 में बीमा अधिनियम बनने के बाद आज तक एक भी मामला इस बारे में सामने नही आया है। उदाहरण के लिये एक नियमों को बंधित अभिकर्ता को कॉलर से पकड़ लिया गया क्योंकि उसने मुव्वकिल की मुठ्ठी गर्म की थी। मुझे यह जानकर आश्चर्य होता है कि बीमा परिमंडल में कागज पर इस विनियम का बचाव किया जाता है जिसके कारण लगातार अमाननीय व अस्पष्ट हैं। संभव है बीमा विपणन की कुछ विशेषतायें बीमा बनाने वालों ने भारित कर दी है।

अभी भी इस सूचना के विस्फोट के समय समाज उस स्थिति को सम्मान देता है जो अंश में वैध है। यह लगता है कि बीमा अधिनियम का एक भाग अभिकर्ताओं को अपने कमीशन में से एक भाग के रूप में बट्टा देने से रोकता है। यह इस बात पर ध्यान नही देता की इसी प्रकार के व्यवसाय में ऐसी प्रथा अभिभावी होती है तथा विधि के प्राधिकरण वित्तीय सेवाओं के ऐसे मामले में क्या कदम उठाते हैं।

उदाहरणत: कोई भी विधान डाक-घर छोटी बचत योजनाओं के अभिकर्ताओं द्वारा अपने मुव्वकिलों को दी जारी छूट को रोकता है। दूसरी तरफ सरकार ने ऐसे प्रोत्साहनों के स्वंय मान्यता प्रदान की है। जिसमें स्पष्ट रूप से जब एक ग्राहक डाक अभिकत्ताओं से प्रोत्साहन प्राप्त करता है वह बीमा अभिकत्ताओं से भी ऐसी ही सुविधा चाहता है।

व्यवसाय जगत जिस पर जूनो मोनिटो धन की देवी का दबदबा है व्यवसाय इस प्रकार करती है बीमा प्रोत्साहन दिये जैसे मैगी का ताज प्राप्त करना हो। आजकल विक्रय प्रोत्साहन को विपण्ण माध्यम की तरह देखा जाता है न की रिश्वतखोरी की तरह।

वर्ष 1523 में जब सेल्समैन शब्द का प्रचलन अंग्रेजी भाषा में प्रारंभ हुआ सेल्समैंन को एक कपटी कीड़े के रूप में देखा गया। धीरे - धीरे दृष्टिकोण बदलता गया विशेषत:1704 के समय जब लंदन गैजेट में सेल्स वूमन शब्द आया। यह सच्चाई है कि बीमा क्षेत्रों में जो गहरे जमे हुये है वह उस सेल्स व्यक्ति की विशेषताओं को अपने में सम्माहित किये हुये है जैसे लोग सदियों पहले करते थे।

तर्कगत रूप से यह विचार है कि एक व्यक्ति अपनी आय का अपने मुव्वकिल के साथ कुछ भाग बाँटता है तो अधिनियम उस पर भ्रमंग करता है जबकि उच्च बीमा राशि तथा लंबी अवधि की पॉलिसी में वैधानिक रूप से साख संकेत होना चाहिये। ग्राहक के प्रति बीमा कंपनियों द्वारा।

कोई भी विप्पणन सच्चाई के पास नही है कि निगमित जो मुफ्त तथा बट्टा प्रस्तावित करते हैं। रक्षित रूप से प्रोत्साहन की लागत मूल्य को पुनसंरचना कर प्राप्त कर लेते है। बीमा कंपनियाँ इस लागत को प्रतिबंधित खर्च के रूप में लाद देती है। जब वह प्रीमियम की संरचना करती है। इतने आकर्षक प्रस्ताव के चलते छुपी लागत के तथ्य दब कर रह जाते हैं। यही कारण है कि रिजर्व बैंक ऑफ इंडिया को विज्ञापनों पर बड़ी कमी करवानी पड़ी जो उपभोक्ता सामान को शून्य ब्याज दर पर उपलब्ध करवाने के लिये दिये जाते थे।

व्यवसाय को बढ़ाने के लिये तथा ग्राहक की निष्ठा जीतने के लिये अभिकर्ता अपने द्वारा अर्जित कमीशन का एक भाग ग्राहकों को देता है। परिणामस्वरूप अपने व्यवसाय में बढ़ोतरी करता है कानून को तोड़ते हुये। इस प्रथा को तोड़ने के लिये उठाये जाने वाले प्रश्नों में जिसमें बीमा कंपनी तथा व्यापारिक घराने शामिल हैं। प्रतिस्पर्धा को बढ़ा कर अभिकर्ता तो उत्प्रेरित किया जाये जिससे अभिकर्ता तथा विक्रय प्रतिनिधि अच्छा कार्य संपादन कर सके। ऐसी प्रतिस्पर्धा को विजेता के रूप में उपहार जिसमें मजेदार क्षेत्रों की यात्रा भी शामिल हो पुरस्कार स्वरूप दिये जाते है। ऐसे बड़े उपहारों की लागत कंपनी द्वारा वहन नही की जाती है वह उत्पाद की लागत पर चढ़ा कर बराबर बाँट दी जाती है। सभी ग्राहकों के मध्य इसका अर्थ यह हुआ।

ग्राहकों से उत्पाद के वास्तविक प्रारंभिक लागत से अधिक मूल्य उन सेवाओं पर लिया जाता है जो प्रस्तावित की जाती है।

जैसा कि आज कानून लागू है यह असंभव है कि किसी एजेंट द्वारा किसी ग्राहक को दी गयी राशि का सत्यापन किया जा सके तथा वह बीमा अधिनियम के विरूद्ध हो। बीमा के निगमित पिरामिड पर छोटे स्तर पर सभी जानते है कि दूसरी तरफ सदा बट्टा देना एक गतिविधि बना रहेगा तथा उद्योग इसको अनदेखा करेगा। किसी भी व्यक्ति की शक्तियों और सामर्थ से बाहर होगा कि वह यह प्रतिस्थापित कर सके कि कोई वित्तीय गतिविधि एजेंट तथा मुव्वकिल के मध्य घटित हुई जिस प्रकार भारत में बीमा अधिनियम परिभाषित करता है।

डेविड ह्यूज का यह कथन की पैसा वह वसा है जो व्यापार के प्रवाह को निर्विघ्न संचालित करता है वह बीमा सेवाओं पर भी लागू होता है।

बीमा उद्योग में लंबे समय के होने वाले परिवर्तनों के साथ प्राशुल्क से मुक्त व्यवसाय की स्थापना भी है। बीमा विक्रय की जटिलताओं को विभिन्न माप-दंडों द्वारा तथा अधिनियमित द्वारा ही होना चाहिये जिन्हें लागू करना असंभव है।

लेखक सेवानिवृत ईडी (पीआर तथा जन संचार)
भारतीय जीवन बीमा निगम

“ कुछ तो लोग कहेंगे ”

निश्चित रूप से वर्ष 2003 लॉयड बाजार के लिये अच्छा था। अंतत: हम सब ठीक कह रहे है। हमारे अंश धारकों के लिये बीमा बाजार की अर्थव्यवस्था अर्थ प्रस्तुत कर रही है। लेकिन इन सभी अच्छी खबरों के बीच मेरा यह पक्का विश्वास है कि वर्ष 2004 वास्तविक परख होगी, केवल लॉयड्स के लिये नही अपितु संपूर्ण बीमा उद्योग के लिये।

लार्ड पीटर लेविन, अध्यक्ष,
लॉयड ऑफ लंदन

एक ऋण सज्जा के रूप में पुर्नबीमा

रॉयल कमीशन रिपोर्ट एच आइ एच बीमा के गिर जाने पर एच आई एच का हनेवर पुर्नबीमा से समझौते पर

मुझे निराशा हुई है कि ग्रामीण क्षेत्रों के लिये बनाये गये उत्पाद समाज में असुविधा प्राप्त वर्ग की आवश्यकताओं के लिये उल्लेखनीय रूप से सामने नही आये हैं। ग्रामीण क्षेत्रों में बचत के पाचन की बड़ी संभावनायें है। वाणिज्यिक बैंकों की ग्रामीण शाखायें जमा से भरी पड़ी है।

सी एस राव, अध्यक्ष,
बीमा विनियामक व विकास प्राधिकरण

वित्तीय प्रस्तावों में से उच्च कुपन रेट ले लीजिये, फिर निगमित ऋण पेपर ले लीजिये। इसी समय क्योंकि परियोजनायें समापन पर हैं तथा आपूर्ति प्रारंभ हो चुकी है। अब नगण्य परियोजना जोखिम है... हमारे लिये सुरक्षा महत्वपूर्ण है। इसलिये हमें ऐसी परियोजनाओं को देखते हैं जो लगभग समापन पर है।

एस बी माथुर, अध्यक्ष,
भारतीय जीवन बीमा निगम

उदारीकरण के बाजार में जीआईसी के वैधानिक अध्यर्पण के संबंध में कोई होड़ नही होनी चाहिये।

ए सी मुखर्जी रिपोर्ट

(पुर्नबीमा) का विदेशों में स्थानापन्न आईआरडीए द्वारा केवल उसके बाद होना चाहिये जब बीमाकर्ता यह प्रदर्शन कर सके की उन्होंने स्थानीय क्षमता का दोहन कर लिया है।

पी बी रामानुजम, प्रबंध निदेशक,
जी आई सी

विधि बनाम व्यवसायिक देयत्ता

- मोटर बीमा तथा विधि

एस मुरलीधर

देश में कुल साधारण बीमा प्रीमियम का एक तिहाई मोटर प्रीमियम होता है फिर भी यह हानि देने वाला भाग है। जिसमें तृतीय पक्ष तथा ऑन डेमेज के लिये उच्च निकासन होता है। बीमा की माँग के साथ प्रीमियम बढ़ना चाहिये तथा तृतीय पक्ष के संदर्भ में वैधानिक आधार पर अधिकतम सीमा निर्धारित करनी चाहिये जो वर्तमान में असीमित है। भूतपूर्व आईआरडीए (गैर-जीवन) सदस्य के शब्दों में 'यह बीमाकर्ता से अपेक्षा करना की वह रक्त से भर कर भी देश में तृतीय पक्ष व्यापार करे ठीक नही होगा।'

इस माँग को देश में उदारीकरण के संदर्भ में देखा जाना चाहिये जिससे निजी व्यवसायी अपने आगमन द्वारा दिये गये तीन वर्षों से ज्यादा समय से भी चलाती आ रही प्रतिस्पर्धा को बढ़ाया जा सके। फिर भी उदारीकरण का रिपोर्ट कार्ड बहुत उत्साहवर्धक नही है। असली लाभ प्राप्तकर्ता बड़े स्तर के निगमित ग्राहक है। जिनके पास प्रस्तावों तथा सेवाओं की झड़ी लगी हुयी है। जहाँ तक व्यक्तिगत ग्राहकों की प्रश्न है जिससे पर्याप्त प्रीमियम प्राप्त नही होता है। उनके लिये बढ़ती हुयी शिकायतें है। उनकी उदासनीता बढ़ती गयी - तथा बढ़ते हुये लंबित दावों को देखे तो उनके लिये कुछ नही बदला है।

उद्योग के वर्तमान वैधानिक उत्तरदायित्व के चलते मोटर बीमा व्यवसाय को अधिक व्यवहार्यपूर्ण बनाने के लिये माँग हो रही है। जिस पर जनता में कोई गंभीर परिचर्चा नही हुई है। बीमा के प्रत्येक भाग देश में प्रतिष्ठा से चलता है इसलिये तृतीय पक्ष देयत्ता में किसी भी प्रकार के परिवर्तन के लिये वैधानिक पृष्ठभूमि जो इसको शासिक करती है। उसमें परिवर्तन आवश्यक है।

गैर जीवन बीमाकर्ताओं के बंधनों को समझने के लिये वैधानिक उत्तरायित्वों को समझने की आवश्यकता है जो मोटर वाहन अधिनियम के अंतर्गत पैदा होती है। सार्वजनिक क्षेत्र के साधारण बीमा का भाग लेने की प्रकृति पूर्ण रूप से व्यवसायिक है। लेकिन दूसरी तरफ यह सामाजिक न्याय की भूमिका को भी बताती है। क्या वर्तमान परिस्थितियाँ उदारीकरण के परिपेक्ष में हमें अलग से दृष्टिकोण स्थापित करने के लिये प्रेरित करती है, यही प्रश्न है?

एक संक्षिप्त पूर्व स्थिति:-

14वीं शताब्दी में इटेलियन व्यवसायियों द्वारा जहाज तथा माल के समुद्र में विलप्त होने के लिये बनाये गये अधिनियम से यह विधि ली गयी है। प्रारंभिक रूप से व्यवसायी अपने झगड़े न्यायालयों में सुलझाने में सफल रहे लेकिन 18वीं शताब्दी के मध्य में इंग्लैंड में स्थिति में परिवर्तन आया जब न्यायालयों ने बीमा समझौते के मामलों के लिये कॉमन लॉ के सिद्धान्तों को अपनाना प्रारंभ किया।

भारत में एक उपनिवेश के रूप में अपने प्रतिस्थानी इंग्लैंड को ही टार्ट के लिये अपनाया। दो लंबे समय से लटकते हुये कॉमन लॉ तथा नियमों को छोड़कर जिन्होंने दावों को बनाये रखने के लिये व्यक्ति की दुर्घटना में मृत्यु के लिये टार्ट लॉ को अपनाया।

1855 में विधि प्रतिनिधित्व वाद अधिनियम तथा दुर्घटना मृत्यु अधिनियम सामने आये जिन्होंने क्रिया गलती के कारण हुई मृत्यु के परिणामस्वरूप हुई के लिये मुआवजे का प्रावधान किया।

ऑटोमोबिल के सामने आने के परिणामस्वरूप, बड़ी संख्या में लोगों के जोखिम, मोटर वाहन अधिनियम, 1939 (एमवीए 1939) ने वर्ष 1914 के अधिनियम को बदल दिया जिसको बनाने के पीछे सुरक्षा तथा जनता की सुविधा को को ध्यान में रखा गया था तथा एक तालमेल युक्त यातायात प्रणाली.

इस अधिनियम में वर्ष 1956, 1969 तथा 1982 में संशोधन किये गये तथा इसका पुर्नस्थापन मोटर वाहन अधिनियम 1988 (एमवीए 1988 से कर दिया गया।

यह एमवीए 1939 के अंतर्गत ही था कि मोटरवाहनों के लिये आवश्यक तृतीय पक्ष जोखिम को प्रारंभ किया गया। वर्ष 1956 के संशोधन में दावों की प्रणाली को ट्रियुबन में बदला गया जिससे वर्तमान कठिनाइयों को जिनका अनुभव लोगों की मोटर क्षति या मृत्यु जो मोटर वाहन द्वारा होती है से किया जाता है।

न्यायालय विधि परिवर्तन के कारक बने

वैधानिक कानून में परिवर्तन जिन्होनें देयत्ता जाल में विस्तार किया तता बढ़ती हुयी वास्तविकता जो सड़क दुर्घटनाओं के संबंध में थी उसको स्वीकार किया। यह प्रयास प्राथमिक रूप से भारतीय विधि आयोग का तथा उच्च तथा उच्चतम न्यायालय का था। अपनी 51वीं रिपोर्ट में विधि आयोग ने सिफारिश की दुर्घटना तथा दौड़ मामलों में क्षतिपूर्ति प्रदान की। इस पर पुन: बल दिया गया तथा आगे के सुझाव 85वीं रिपोर्ट में दिये गये।

इस दौरान सर्वोच्च न्यायालय बीमा की तरफ सामाजिक न्याय दिलवाने के औजार के रूप में देख रहे थे।

एस एम काला बनाम एस जे भट्ट के मामले में न्यायालय ने कहा प्रलक्षित देयता का मिलान क्रमिक अविर्भाव में है। यह सामाजिक न्याय का सिद्धान्त है। न्यायालय उन पुराने निर्णयों से भारित नही हो सकती जो अलग स्थितियों में दिये गये थे। अब भारत में कार के स्वामी पर गैर अनुमानित देयता का भार नही है तथा बीमाकर्ता पर वैधानिक बाध्यता है कि वह तृतीय पक्ष दायित्व का बीमा करे तथा उसका भार अब मोटर वाहन अधिनियम 1939 के अंतर्गत बीमाकर्ता के ऊपर स्थानांतरित हो गया है।

इसी तरह से न्यायालय ने कुछ प्रेरणा कानून बदलने के लिये प्रख्यापन क्रम में दी है जिसमें यह दबाव डाला गया है कि अब समय आ गया है कि गलत दोष देयत्ता के लिये गंभीर प्रयास किये जायें। संघ के निदेशात्मक निति के संबंध में मोटर दुर्घटना के संबंध में मोटर बीमा की बाध्यकारी स्वरूप, साधारण बीमा कंपनियों के राष्ट्रीयकरण तथा बस परिवहन के बढ़ते के कारण, टार्ट पर आधारित और गैर दोष देयता पर सुधार किया जाये। मोटर मालिक बीमा कंपनी लिमिटेड बनाम जादवजी केशवजी मोदी मामले में न्यायालय ने कहा साधारण बीमा निगम के नवगठन के बाद साधारण बीमा निगम जिसने साधारण बीमा व्यवसाय सभी प्रकार का ले लिया है, जिसमें मोटर वाहन भी शामिल है यह आसान होगा कि इसे वैधानिक पहचान दी जाये जिससे राज्य की अनिवार्यता सड़क दुर्घटनाओं में क्षतिग्रस्त लोगों को पर्याप्त तथा त्वरित बिना झगड़े के दी जा सके।

वर्ष 1982 में मोटर वाहन अधिनियम में बिना गलती देयत्ता तथा भार कर दौड़ने की क्षतिपूर्ति इसमें मृत्यु पर 15000 तथा आशक्तता के लिये 7500 रूपये की क्षतिपूर्ति बिना गलती के देयत्ता के रूप में रखी गयी। मार कर दौड़ने पर यह राशि मृत्यु अवस्था में 5000 तथा गंभीर चोट लगने पर 1000 रूपये रखी गयी। वर्ष 1988 के मोटर अधिनियम में इन्हें जारी रखा गया। सर्वोच्च न्यायालय के एम के कुनीमोहम्मद बनाम पी ए अहमद कुट्टी मामले में जो सुझाव दिये उनके अनुसार बिना गलती तथा मार कर दौड़ने देयत्ता धनराशि को बढ़ाना चाहिये तथा तृतीयपक्ष व सवारियों के बीच भेद समाप्त कर दिया जाना चाहिये।

कानून में व्यथित के लिये पूर्वाग्रह

न्यायालयों ने इस माँग को माना है कि बीमाधारक के दावों को मजबूत से सम्मान किया जाना चाहिये तथा ऐसी देयत्ता से विषम परिस्थितियों में ही बचना चाहिये। सिकंद बीमा कंपनी बनाम वी कोकिला बेन के मामले में सर्वोच्च न्यायालय ने व्याख्या की है कि मोटर वाहनों का बाध्यकारी बीमा व्यवसाय बढ़ाने के लिये नही है, इसका उद्देश्य समुदाय के सदस्यों को जो दुर्घटनाओं के कारण पीड़ित होते हैं मोटर वाहन के प्रयोग के कारण उन्हें सुरक्षा प्रदान करना है।

सामाजिक सुरक्षा जाल जो यूनाइटेड किंगडम में उपलब्ध है उसकी अनुपस्थिति में कानून द्वारा बीमाकर्ता को इस प्रकार आवर्त किया गया है कि दुर्घटना के पीड़ित को क्षतिपूर्ति मिल सके। इस योजना के पीछे तर्क यह है कि बीमाकर्ता हानि को नियंत्रित रूप से बाँट सकें तथा स्रोत उपलब्ध हो जिन्हें पीड़ित व्यक्ति जिन्हें हानि हुई है उनके बीच बाँटा जा सके। यह वह दृष्टिकोण है जिसे अमेरिका में अपनाया गया, दूसरा कारण अभी स्वीकृति में देरी तथा न्याय प्रणाली में समय लगना है जो इतने भार से तथा कार्य के अंबार से ग्रसित है। यह युक्तिसंगत नही होगा की पीड़ित प्रभावशाली ढंग से दावे के पीछे लगा रहे। क्षतिपूर्ति के लिये आज की न्याय प्रक्रिया की व्यवस्था को देखते हुये।

भविष्य:-

मोटर बीमा के साधरणत: व तृतीयपक्ष के विशेष रूप से वैधानिक कानूनों के विकास को प्रभावित किया है। सामाजिक, आर्थिक वास्तविकताओं ने हमारे देश में। यह तथ्य हमारे सामने एक धुंधली तस्वीर प्रस्तुत करते हैं। देश में दुर्घटना दर के कम होने के कोई आसार नही दिखते हैं। वर्ष 1988 में यातायात दुर्घटनाओं में मरने वालों की संख्या 93996 थी जिनमें से 76732 सड़क दुर्घटना में मरे। यह 3.5 लाख दुर्घटनाओं तथा 85000 पीड़ित तक बढ़गये हैं।

यह चिंता का विषय है कि यदि दुर्घटना का कारण ड्राइवर की गलती न भी हो तथा यांत्रिक खराबी हो। इसकी लागत को भी वाहन निर्माताओं के ऊपर भारित नही किया जाता और वह कानून की क्षतिपूर्ति ढाँचे से बाहर ही रहते है। यह बीमा कंपनी द्वारा माँग करना न्याय संगत होता कि तृतीय पक्ष की उसकी देयत्ता को पूरा करने के लिये जो ऐसी दुर्घटनाओं द्वारा उत्पन्न होती है। उसे उत्पादक की लागत में दे दिया जाये। साथ ही यह भी माँग की गयी है कि एक वैधानिक बाध्यता उत्पादक पर टैक्नॉलोजी को उन्नत करने के लिये की जाये जिससे दुर्घटनाओं को कम कर। जोखिम जो भारतीय सड़कों पर है उसे कम किया जा सके। यह अब अधिक संभव है पहले से ज्यादा जबकि विदेशी उत्पादक बाजार को अपने उत्पादकों से भर रहे हैं तथा उनके पास इस लागत को भुगतने की क्षमता है जो वह अपने मूल देश में उठाते ही हैं।

भारतीय पीड़ितों के सामाजिक आर्थिक प्रोफाइल को देखते हुये भारतीय साधारण बीमा कंपनियों की आर्थिक क्षमता को भी देखना होगा। जिन्हें असीमित तृतीय पक्ष देयत्ता देनी पड़ती है।

संविधि में क्रमिक परिवर्धन तथा न्यायालय के निर्णय हमें इस बात की पुर्नवृति करवाते है कि इस देश में मोटर बीमा से संबंधित कानून बीमा समझौते का कानून नही रह गया है। यह जितनी चिंता का विषय दुर्घटनाग्रस्त के लिये है उतना ही बीमाकर्ता तथा बीमित को बी। जो परिवर्तन चाहे गये हैं वह कानून के ढाँचे में होने चाहिये।

लेखक सर्वोच्च न्यायालय के वकील हैं तथा भारतीय विधि आयोग के अंश कालिक सदस्य है। ये विचार उनके अपने है।

निकासन शर्त की जरूरत

- ए सी मुखर्जी कमेटी रिपोर्ट

के. रामचन्द्रन

3.20 अधिकांश देशों में बीमा एजेंट संस्था स्थापित है तथा वह भारत में अस्तित्व में ही नहीं है केवल पूर्णबीमा के क्षेत्र को छोड़कर। ब्रोकर वे पेशेवर हैं जो बीमाकर्ता तथा बीमाधारक को साथ-साथ लाते हैं, बीमा समझौते के कार्य के लिए तैयारी करते हैं और जब आवश्यक हो प्रशासन तथा ऐसे समझौतों के कार्य निष्पादन में सहायता कर सकें विशेष रुप से जब दावा सामने आए। मुक्त बाजार में ब्रोकर की अपेक्षाकृत अधिक महत्वपूर्ण भूमिका है ऐसे बाजारों की अपेक्षा जो अंशत: या पूर्णत: टैरिफ से संचालित होती है। वह निरंतर पेशेवर प्रबन्धक बनते जा रहे हैं। ब्रोकर के व्यावसायिक मानकों का संबंध स्व विनियामित संस्थाओं से है तथा उनके पंजीकरण की आवश्यकता प्राधिकृत प्राधिकरण द्वारा है। ऐजेंट जैसा की उन्हें बीमाकर्ता के प्रतिनिधि के रुप में प्रतिधारित किया जाता है। ब्रोकर का पहला उत्तरदायित्व बीमाकर्ता के प्रति है वह अपने मुवक्किल की आवश्यकताओं को बीमाकर्ता के सामने रखते हैं तथा उचित बीमा उत्पाद उनसे ग्रहण करते हैं। जबकि कभी मानक उत्पाद नहीं हो वह एक 'पांडुलिपि लिपि' पॉलिसी तैयार करते हैं तथा बीमाकर्ताओं से मोल-भाव करते हैं जिससे उनके मुवक्किल को अधिकतम संतोष मिल सके एक ब्रोकर के रुप में कई बीमा कंपनियों से मोल-भाव करते है, वह बीमा बाजार में प्रतिस्पर्धा के लिए मुख्य श्रोत का कार्य करते हैं। इसलिए यह लाभप्रद होगा यदि बीमा अधिनियम में उपयुक्त संशोधन लाये जाएँ जिनका संबंध ब्रोकर संस्था तथा परिचालन के विनिमयों से हो।

मल्होत्रा समिति की सिफारिशें-

3.22 बीमा विप्पणनके समकालिन रुझानों को देखते हुए बीमा विनियमन द्वारा ब्रोकर प्रणाली को लाया जाना चाहिए जिससे बेहतर व्यावसायिकता उन्नत ग्राहक सेवा तथा प्रतिस्पर्धा लायी जा सके।

मल्होत्रा समिति रिपोर्ट, खण्ड III, बीमा मध्यस्थ भाग II साधारण बीमा

7 जनवरी 1994 को प्रस्तुत की गई अपनी रिपोर्ट में मल्होत्रा समिति ने साधारण बीमा व्यवसाय में बीमा ब्रोकर की आवश्यकता का अनुमान लगाया था। आई आर डी ए बिल 1999 में धारा 42डी को बीमा अधिनियम 1938 में शामिल किया गया था तथा एक मध्यस्थ एक बीमा मध्यस्थ ''आई आर डी ए 1999 की धारा 2एफ के अंतर्गत शामिल किया गया था जैसे परिभाषित है'' मध्यस्थ अथवा बीमा मध्यस्थ में बीमा ब्रोकर शामिल होगा, पूर्ण बीमा ब्रोकर शामिल होगा, बीमा सलाहकार, सर्वेयर तथा हानि निर्धारिक शामिल होगा।

एक विनियामक के रुप में ने वैधानिक शक्तियों को साथ लिया 2000 मई में ड्राफ्ट ब्रोकर विन्मयों को प्रचारित करके। इन विनिमयों में भावी ब्रोकरों को 30 प्रतिशत तक कमीशन देना शामिल था लेकिन इस ड्राफ्ट को वापस ले लिया गया जिस पर अगले कई महिनों में कोई कार्यवाही नहीं हुई।

ब्रोकर को सामने लाने के विषय तथा उसके विनिमयों को अनिश्चितता से तथा जरूरतों के अनुसार दाव लगाने वालों द्वारा देखा गया। यह उन लम्बी बैठकों में भी झलकता था जो 16 अक्टुबर 2002 को विनियमों की अधिसुचना जारी होने से पहले हुई भिर भी कमीशन पूर्ण जाँच के दायरे में बना रहा।

आईआरडीए द्वारा 22 मार्च 2003 को कमीशन ढाँचा घोषित किया गया उन शक्तियों के चलते जो इसको प्रदान की गई थी आईआरडीए अधिनियम 1999 के द्वारा, उपभोक्ताओं के साधारण हितों के लिए तथा मध्यवर्तियों की लागत को बाजार में विनियामित करने के लिए जिससे सरल तथा उपयुक्त वृध्दि भारतीय बाजार में सुनिश्चित की जा सके (देखें तालिका I कमीशन संरचना को देखते हुए, अगले स्पष्टीकरण आगे आएंगे)

30 मई 2003 को आईआरडीए द्वारा कमीशन की एवज में दिया जा रहा 5 प्रतिशत कमीशन वापस ले लिया गया। चैम्बर आफ कॉमर्स तथा उपभोक्ता प्रतिनिधियों ने इसका जोरदार विरोध किया क्योंकि इससे उनकी बीमा प्रशासनिक लागत में वृद्धि हो गई। इस छूट ने कुछ तरीके सुझाए।

आईआरडीए ने एक एक्सपर्ट समिति का गठन 1 सितम्बर 2003 को एक अधिसूचना द्वारा किया यह मुद्दा न केवल विशेष छूट एजेंसी कमीशन, ब्रोकर मेहनताना तथा अलग-अलग दरों / मापदंडों को जो बीमा व्यवसाय को हासिल करने के लिये अपनाये जाते है। वरन् यह बहुत सारे मुद्दों को संबोधित करता था।

आईआरडीए समिति जिसकी अध्यक्षता श्री ए सी मुखर्जी तथा जिसमें शामिल थे श्री जी वी राव तथा के एन भंडारी सदस्य के रूप में ने अपनी रिपोर्ट 22 दिसम्बर 2003 को आईआरडीए द्वारा प्रकाशित की गयी दाव लगाने वालों को सिफारिशों पर अपने सुझाव देने के लिये 10 दिन का समय दिया गया।

दो दृष्टिकोणों से रिपोर्ट को देखा जा सकता है:

1. वर्तमान स्थिति जो सक्रमण काल को प्रदर्शित करती है।

2. वर्तमान प्रथाओं के अतिरिक्त जो परिवर्तन जरूरी थे तथा ऐसे परिवर्तन जरूरी थे तथा ऐसे परिवर्तन जिनकी आवश्यकता हो तथा उनका प्रबंधन जिससे नयी प्रणाली में आधारभूत परिवर्तन लाया जा सके।

समिति ने वर्तमान स्थिति को भली प्रकार पकड़ा तथा धारणा यह ती कि ऐसी सिफारिशें सुधारवत् की जाये जो परिवर्तन को प्रबंधकीय तथा नियंत्रित रखे, सिफारिशों में नये आदेश को शामिल नही किया गया। लेकिन उन्होनें 1 अप्रैल 2006 से प्रभाव में आने वाले स्थिति को अनुमानित किया।

सिफारिशें 3 भागों में थी:

1. शुद्ध जोखिम दरों का संधिकाल
2. कमीशन संरचना
3. ब्रोकर कंपनियों की मूल संरचना

शुद्ध जोखिम दरों का संधिकाल का उद्देश्य प्रत्येक बीमाकर्ता को मूल रूप से सुकर बनाना है।

जिससे वे टैरिफ एडवाइजरी कमेटी (टीएसी) के अनुभव के पर्यवेक्षण की तरफ अग्रसर हो सके। यह स्पष्ट नही है कि क्या टीएसी बाजार में व्यक्तिगत शुद्ध जोखिमों का अनुवीक्षण करेगी अथवा नही। टीएसी वर्तमान में उपलब्ध प्रत्येक टैरिफ वर्ग के लिये तैयारी करेगी अगले दो वर्षो के भीतर।

फिर भी कोई भी समिति की इस संतुति से सहमत होगी कि शुद्ध जोखिम मूल्य बदलाव के लिये आरंभिक प्रबंध तथा जाँच की आवश्यकता होगी। टीएसी को इसके लिये तैयार तथा उपस्करबद्ध होने की आवश्यकता है जिससे इस संबंध में आंतरिक चुनौतियों से निपटा जा सके।

निजी तथा सरकारी सभी फर्मों के लिये कमीशन संरचना को स्पष्ट रूप से बीमाकर्ता के पक्ष में संचालित किया गया है। जिनकी देय पूँजी एक करोड़ रूपये से अधिक हो तथा 25 करोड़ से कम हो तथा जो कि अग्नि तथा इंजीनियरिंग बीमा में इस प्रकार हो:

1. यदि स्वंय प्राशसनिक हो तो मुव्वकिल को 5 प्रतिशत ले लिया जाये

2. यदि एजेंट बीमा लाये (इसे 5 प्रतिशत तक घटा दिया जाये जब अंश पूँजी 25 करोड़ से अधिक हो)

3. ब्रोकर को 7.5 प्रतिशत जब मुव्वकिल के पाँच प्रतिशत बट्टे को समाप्त किया जाये यदि ब्रोकर बीमा लाये (अंश पूँजी 25 करोड़ से ज्यादा होने पर इसे 6.25 प्रतिशत तक कम कर दिया जाये।

मुवक्किल की स्थिति (सरकारी तथा निजी)

परिपेक्ष अग्नि तथा यांत्रिक बीमा क्रय, एक विकल्प दिया जाये। पाँच प्रतिशत बट्टा देने के लिये स्वंय प्रशासनिक क्रय के लिये अथवा एक एजेंट अथवा ब्रोकर की सेवाओं का उपयोग किया जाये। मुवक्किल को एक मध्यस्थ की सेवाओं का उपयोग करने के लिये बाध्य नही किया जाना चाहिये। यदि वह मध्यस्थ की सेवा लेने का चुनाव करता है तो बीमाकर्ता को वृतिक कमीशन जो ब्रोकर अपना अभिकर्ता को दिया जाना था उसे बीमाधारक को देकर बाध्यकारी होना चाहिये।

अग्नि अभियांत्रिक बीमा के मामले में समिति ने एक दृष्टिकोण लिया कि कोई दर्शनीय अंतर अभिकर्ता तथा ब्रोकर की भूमिका में नही है। प्राशुल्क तथा ज्यादातर मुवक्किल के बीमा प्रक्रिया, क्रय को देखते हुये।

वैधानिक बीमा के लिये अभिकर्ता तथा ब्रोकर को 10 प्रतिशत कमीशन देय होगा। कमेटी का यह सोचना था कि बीमा ग्रहण करने की प्रक्रिया दोनों माध्यमों में अलग अलग नही है।

अन्य सभी प्राशुल्क क्रम में समिति की संस्तुति है कि कमीशन 10 प्रतिशत तक एजेंट को तथा 12.5 प्रतिशत तक ब्रोकर को दिया जाये। गैर प्राशुल्क व्यवसाय के क्रम में समिति ती संतुति थी। कमीशन 15 प्रतिशत तक एजेंट को तथा 17.5 प्रतिशत तक ब्रोकर को दिया जाये। विशेष बट्टा मुवक्किलों को उपलब्ध नही होगा।

समिति ने यह दृष्टि अपनायी कि 25 प्रतिशत का ब्रोकर तथा एजेंट के बीच अंतर उनके उत्तरदायित्व बीमा को प्रक्रियाबद्ध तथा क्रय करने के लिये रहेगा। एक ब्रोकर के लिये प्रवेश मानदंड यह मूल्यांकन प्रतिविंबित नही करते। इसलिये यह आवश्यक हो जाता है कि ब्रोकर के लिये प्रवेश के मानदंडों पर पुन:विचार हो।

इन संस्तुतियों में ब्रोकर के लिये अवसरों तथा वृतिका के लिये तीव्र कमियाँ प्रस्तावित है।

विनियमों को देखते हुये जो अभी आने हैं तथा अंतिम नही हुये है वह सहायता करेंगे यदि ब्रोकर जिन्हें पंजीकरण प्रदान किया गया है अथवा जिन्होंने विनियम 19 के प्रावधानों के अंतर्गत आवेदन किया है बिना वित्तीय हानि के बाहर निकल सकते हैं।

इन संस्तुतियों में ज्यादार वृतिका अवसर एक करोड़ से कम अंश पूँजी वाली संस्थाओं में अग्नि तथा अभियांत्रिक बीमा के लिये दी गयी है तथा अन्य सभी प्रकार के बीमा के लिये भी। इन सेवाओं पर संबोधन बैंक निगमित एजेंट के रूप में,व्यक्तिगत एजेंट तथा दूसरे श्रेणी के ब्रोकर होंगे। ब्रोकर प्रारंभ करने के लिये अगले 2 वर्षों में एजेंट से भी अधिक संघर्षरत रहेंगे जबकि व्यक्तिगत व निगमित एजेंट काफी आगे निकल जायेंगे।

संस्तुति के अनुसार यदि कोई मुवक्किल एक करोड़ से अधिक व 25 करोड़ से कम देय पूँजी के लिये मध्यस्थ का चुनाव करता है तो बीमाकर्ता के लिये अनिवार्यत होगा की वह एजेंट या ब्रोकर को कमीशन दे।

मुंबई में अर्नस्ट एंड यंग की स्टडी, जो चार साल बाद भी आज प्रासंगिक है, जिसमें निगमित कार्यपालकों जो कंपनियों का बीमा कार्य देखते हैं उनमें से तीन चौथाई ही बीमा ब्रोकर की परिकल्पना से परिचित थे। जबकि जागरूकता का स्तर परंपरागत तथा बड़ी निजी क्षेत्र भारतीय कंपनियों में आंतरिक रूप से है। निगमित श्रेताओं के मध्य ब्रोकर की स्वीकार्यत उच्च है। 70 प्रतिशत प्रतिवादी ब्रोकर के साथ कार्य करने को तैयार है।

स्टडी में उद्योग के विशेषज्ञ, भावी विदेशी बीमाकर्ता तथा उद्योग में अन्यों से भी साक्षात्कार किया गया जिनका मानना था की ब्रोकर से पेशेवरानापन में वृद्धि होगी जो आज दिखाई नही देती। यह अनुभव किया गया की यदि ठीक प्रकार का मार्ग निर्देश दिया जाये। विनियामक प्राधिकरण द्वारा ब्रोकर साधारण बीमा क्षेत्र में गुणात्मक प्रभाव डालेंगे। सर्वे में यह प्रदर्शन हुआ से एक बाजार उपलब्ध है। बीमा ब्रोकरों के लिये। (बीमा मध्यस्थ, अर्नस्ट एंड यंग द्वारा बिजनेस टुडे के लिये की गयी स्टडी फरवरी 2000)

लेखक महा प्रबन्धक, जे. बि. बोडा इंशुरेंस ब्रोकरस् प्रा. लि. यहाँ बताये गए विचार उनके अपने हैं।

पाठ्यक्रम से बाहर

ए सी मुखर्जी कमेटी रिपोर्ट

पी एस प्रभाकर

उस दिन जब मेरे सिर में दर्द था तथा हल्का फ्लू भी था, मैं अपने घर के निकट बहु निदानालय में गया जिससे मेरा उपचार हो सके। जिस चिकित्सक से मैनें अपनी शिकायत स्पष्ट की उसने मेरी परीक्षा की तथा मुझे कई जाँचों पर रखा तथा निर्दय चेहरे से साथ मुझे निदान-पत्र दिया।

वह था कि मेरे अंदर हल्का स्वींइकल स्पोंडलसीस विकसित हो रहा है तथा मेरा मधुमेह स्तर अधिकतम सीमा से टकरा रहा है। इतनी अधिक संभावना है कि मेरी आँखों में गुलूकोमा हो जाये। जल्द या देर से मुझे एपेंडिसाइसिस की शल्य चिकित्सा के लिये जाना होगा। मेरे ईसीजी ने यह सुझाव दिया है कि अगले कुछ वर्षों में मेरी हालत नाजुक होने वाली है तथा यदि मैनें अपने भोजन पर ध्यान नही दिया तो मुझे गैस्ट्रीक समस्या हो सकती है। हाँ उसने परामर्श के रूप में पैरासीटामोल भी दिया जिसके लिये मैं उसके पास गया था।

मैनें यह अनुभव पुन:अर्जित किया जब मैनें रिपोर्टों को पढ़ने का प्रसाद लिया। एक्सपर्ट कमेटी द्वारा दी गयी जिसकी परीक्षा करने के लिये उसका गठन किया गया था। जिसमें सभी मध्यस्थों तथा ब्रोकरों का मेहनताना शामिल था।

यदि कोई आईआरडीए द्वारा दिये गये संदर्भों की शर्तो की तरफ जाये, वह भावना देख सकता है कि व यह थी कि कमेटी इसकी परीक्षा करे कि वितरण तथा विपणन माध्यमों के मेहनताना वर्तमान साधारण बीमा उद्योग में कैसे है। वर्तमान सत्ता में तथा उचित संस्तुतिया दे। इससे यह स्पष्ट हो जाता है कि आईआरडीए नही चाहता था कि समिति अन्य क्षेत्रों में जाये। सच में उन बड़े क्षेत्रों में जिनमें समिति ने कदम रख दिया।

समिति ने अपने बचाव में संख्या 5 के संदर्भ के अन्दर शरण ली जिससे वह उद्योग का गहराई से संपूर्णता में विश्लेषण कर सके। परिणामस्वरूप सलाह उस संदर्भ पर वास्तविक रूप से पढ़कर दी जा सके।

इससे यह प्रदर्शित होता है कि इसका संबंध पहले की चार संदर्भों से है तथा निश्चित रूप से उनका संबंध वितरण माध्यमों से है। वह संदर्भ वास्तव में ऐसे पढ़ा जाना चाहिये। अन्य कोई मुद्दा जिसे समिति बाजार व्यवहार तथा लंबे समय के वितरण माध्यमों के विकास के लिये संबंधित हो। जिससे एक प्रभावशाली समर्थ मध्यस्थ माध्यम लिक्षित किया जा सके। भविष्य में होने वाली वृद्धि के बेहतर हितों के लिये जिसमें बीमाकर्ता तथा बीमित जनता शामिल है।

फिर भी कमेटी ने अपनी रिपोर्ट में कहा है कि कमेटी को संदर्भ विषय के अंतर्गत कहा गया है कि संदर्भ पाँच के अनुसार बाजार व्यवहार तथा उसके लंबे समय विकास के लिये संतुति दें। बहुत कम मामले अप्रत्यक्ष रूप से संदर्भों को दर्शाते हैं। इन्हें संबंधित विषयों के अनुसार व्यवहारित किया जाना चाहिये।

आसानी से व्याख्या जो खीची जा सकती है वह उसी प्रकारी की नही हो सकती। इसने कमेटी को अवसर दिया कि वह अपना अच्छा तर्कगत मस्तिष्क लगाये इन परिवर्तनों की अनुशंसा करने के लिये जिसमें निगमित प्रशासन, पॉलिसी धारकों के हितों का संरक्षण, शिकायत निपटान व्यवस्था, वित्तीय स्थिति को मीडिया में प्रकाशित करना विषय नही हो सकते।

आश्चर्य की बात है समिति ने ड्राफ्टिंग में भी दखल दिया है जो अपने आप में झाड़ देने वाला विषय है। यह आईआरडीए, टीएसी, पीएसयू की ध्यान आकर्षित करता है जबकि एक कार्यचित्र बना लिया गया है। जिसमें इससे संबंधित विभिन्न विषयों का प्रतिफल शामिल है। यह तथ्य है मोटर नामक पोर्टफोलियो को प्राशुल्क मुक्त करने के लिये एक अलग समिति का गठन न्यायमूर्ति रंगराजन की अध्यक्षता में किया गया है। जिससे आईआरडीए को कुछ महीने पहले अपनी रिपोर्ट दे दी है।

केवल यही नही विशेषज्ञ समिति की रिपोर्ट में निरंतर ड्राफ्टिंग की जरूरत पर बल दिया गया है तथा उसके लिये समय सीमा भी निर्धारित कर दी है। मीडिया ने भी साथ-साथ इसे समिति के कार्य क्षेत्र से बाहर बताया है।

मेरी राय में यह संस्तुति गहरी परिचर्चा चाहती है। बीमा को बेचने तथा खरीदने वाला इससे लिये तैयार होना चाहिये तथा इस प्राशुल्क मुक्ति का प्रभाव पूर्व में विशेष पोर्टफोलियो निर्णय लेते समय तर्कगत था। किसी भी मामले में प्राशुल्क समिति सह उत्पाद उस समिति की नही हो सकती जिसका गठन इससे आगे बढ़कर करने के लिये किया गया था।

ठीक इसी प्रकार अन्य क्षेत्र जिनको कमेटी द्वारा आवरित किया गया है। वह पुर्नबीमा तथा वर्तमान व्यवसाय प्रथायें है। प्रतिनिधियों की तथा विदेशी व्यवसायियों के संपर्क कार्यालयों की भूमिका प्राशुल्क बीमाकर्ताओं द्वारा तोड़ा जाना 20 प्रतिशत वैधानिक अध्यर्पण जीआईसी तथा आईआरडीए द्वारा दावों के अधिनिर्णायक के रूप में शामिल है।

क्षमा करें पाठ्यक्रम से बाहर है। आईआरडीए की प्रक्रिया होनी चाहिये। परंतु मेरी आशा है वह ऐसा काम करने वाले नही है। कुल मिलाकर विशेषज्ञ समिति की रिपोर्ट अच्छी भावना रखती है। उत्तर निसंदेह सर्वोत्तम है। आईआरडीए अपना प्रश्न द्वारा बना सकता है। भुतलक्षी! यह उच्च जोश कहा जायेगा ठीक है लेकिन इसका ठीक अर्थ है।

मेरा विश्वास करें कुछ संस्तुतिया अनुभव और विवेक पर चिंगारियां है। उदाहरणत: एक जो स्थानीय बाजार क्षमता नि:शेष एच्छिक क्रम स्थान के लिये एक अनिवार्य क्रय स्थान को समाप्त करने के लिये राष्ट्रीय पुर्नबीमा के लिये, बहुत अच्छा है। यह पहली बार है कि गंभीर सुझाव पुर्नबीमा नीति पर उद्योग के लिये दिये गये है। जिससे कार्य निपुर्णता को बढ़ाया जा सके।

बीमा कंपनियों द्वारा अपनी वित्तीय की सूचना बीमित। साधारण जनता को समाचार पत्र के माध्यम से देना अंतर्राष्ट्रीय व्यवसाय परीपाटी से मेल खाती हुई अच्छी संस्तुती है।

सबसे अच्छी संस्तुति कार्य निष्पादन पुनरीक्षण समिति का गठन विनियमों के अनुपालन तथा इस देख-रेख को बाहर देना ऐसी एजेंसी को देना जिसके पास इस कार्य की निपूर्णता तथा अनुभव हो।

अब आईआरडीए के लिये समय आ गया है कि एक कार्यकुशल लेखा परीक्षा प्रणाली बनायी जाये जिससे यह सुनिश्चित किया जा सके की कंपनियाँ विभिन्न विनियमों का अनुपालन कर रही है। जैसे आरबीआई द्वारा सभी बैंकों का नियमित निरीक्षण किया जाता है। अनुपालन के दृष्टिकोण से, आईआरडीए का अनुपालन लेखा परीक्षा तंत्र तथा उसका प्रयोजन बाह्य संतुति हाथो हाथ लिया जायेगा।

आईआरडीए तथा भारतीय संनदी लेखा संस्थान (आईसीएआई) के मध्य एक कार्यकारी समझौता है। कुछ मामलों को लेकर तथा वह अपना बेहतरीन मस्तिष्क इकट्ठा लगा सकते है और इस प्रस्ताव को कार्य रूप दे सकते हैं। यह उद्योग के लिये काफी अच्छा तर्क साबित हो सकेगा।

लेखक जो राष्ट्रीयकृत बीमा कंपनी के साथ कार्यरत थे। एक वृत्तिक संनदी लेखाकार है।

'Arm's Length Price'

- Transfer Pricing in the Insurance Industry

Barry L. Dessin and Hsin Hung

As is known widely, the Income Tax Act, 1961 (The Act) has a separate code on Transfer Pricing (TP), as per which, all "international transactions" between "associated enterprises" shall be computed at an "arm's length price."

This article gives an international perspective on Transfer Pricing methods and regulations.

Recent major developments, at both the Organization for Economic Cooperation and Development (OECD) and the US Internal Revenue Service (IRS), have increased the importance and visibility of transfer pricing for multinational companies, including insurance companies.

Given this increased importance of transfer pricing, and the fact that major changes are likely in the near future, it is important that insurance tax practitioners have an understanding of how transfer pricing rules apply to insurance companies.

Introduction

Several recent major developments have pushed transfer pricing to the forefront of tax compliance and planning for the insurance industry. While the focus of this article is on the application of US transfer pricing rules to insurance companies, other countries such as Canada, Mexico and Argentina have similar rules.

In early 2003, the IRS Commissioner for Large and Mid-Sized Business (LMSB) sent a memorandum to LMSB executives, managers and agents emphasising the priority of the compliance initiative regarding transfer pricing. The memorandum emphasised that transfer pricing documentation should be requested at the beginning of each audit, and that transfer pricing documentation must be in place at the time of tax return filing, or else penalty protection should be denied.

OECD recently issued a series of discussion drafts relating to the attribution of profits to permanent establishments. These guidelines would result in dramatic changes in certain areas, especially in the treatment of capital. The OECD is currently working on guidelines specifically for insurance companies.

The proposed regulations pertaining to intercompany services represent the first wholesale modification of transfer pricing for services in over 30 years. As the majority of transfer pricing issues faced by the insurance industry relate to the provision of services, the proposed regulations should be closely examined to address the potential implications once the regulations become effective as law. Major deviations from existing regulations include significant limitation of existing cost safe harbour rules and the emphasis on the rendered service's contribution of value and the application of the Profit Split Method (PSM).

The OECD is currently working on guidelines specifically for insurance companies.

US transfer pricing regulations

Internal Revenue Code (IRC) Section 482 and the regulations thereunder require that related parties set transfer prices at 'arm's length.' In the US, in addition to IRC Section 482, the IRS also has the power to make adjustments, under IRC Section 845(a), between related parties in reinsurance arrangements to properly reflect the income source and character. In addition to the arm's length standard, key concepts that guide intercompany pricing include the best method rule, comparability and the arm's length range.

Treasury Regulations

Treas. Reg. §1.482-1(b)(1) states that 'the standard to be applied in every case is that of a taxpayer dealing at arm's length with an uncontrolled taxpayer.' In other words, a controlled transaction meets the arm's length standard if the results of that transaction are consistent with the results that would have been realised if uncontrolled taxpayers had engaged in a comparable transaction under comparable circumstances.

There are many methods that can be used to establish that intercompany prices are arm's length. The regulations require that the 'best method' be used to determine the most reliable measure of an arm's length result.

In general, two transactions do not need to be identical to be comparable. For cases with inexact comparables, adjustments must be made to account for differences between the controlled and uncontrolled transaction. Several factors determine comparability, including functions, risks borne, contractual terms , economic conditions and similarity of property or services.

The IRS will not make an income allocation if the taxpayer's results fall within an 'arm's length range' derived from two or more appropriate uncontrolled transactions. Use of the interquartile range, the 25th to the 75th percentile of results, is a statistical method (and the method most often used by the IRS) that can increase the reliability of the arm's length range.

Transfer pricing methods

The arm's length character of a controlled transaction must be determined by applying one of the methods specified for controlled transactions. [1] Some of these methods, i.e.

Resale Price and Cost Plus methods, are seldom applied in the context of an insurance company. [2] We describe below other more commonly applied specified methods for insurance/reinsurance transactions.

Under the Comparable Uncontrolled Price (CUP) method, the arm's length price for the transfer of tangible property between related parties is determined by the price paid for the same or similar property in a transaction between unrelated parties.[3]

The Comparable Profits Method (CPM) evaluates the arm's length character of a controlled transaction based upon objective measures of profitability (known as profit level indicators) derived from uncontrolled taxpayers that engage in similar business activities under similar circumstances.

The PSM evaluates whether the allocation of the combined operating profit or loss attributable to a controlled transaction is arm's length by reference to the relative value of each controlled participant's contribution to that combined operating profit or loss, determined by the functions performed, risks assumed and resources employed by each participant in the relevant business activity.

Transfer pricing rules of special interest to insurance/reinsurance companies

Most intercompany transactions in the insurance industry deal with the transfer of services. Intercompany loans or advances, as well as transfers of intangible property, are also commonly observed among multinational insurance companies.

The IRS issued proposed regulations pertaining to intercompany services and intangible property ownership in September 2003. These proposed regulations would implement numerous significant changes in the transfer pricing treatment of services. However, as these proposed regulations are proposed and not final, the following discussions are based on the existing regulations.

Intercompany services

The regulations permit adjustments to transfer prices if an entity renders service for the benefit of, or on behalf of, a related entity for charges deemed not to be arm's length. In general, the regulations provide that no allocation of costs is allowed if the service provided duplicates a service that the recipient performs for itself, or is of a type for which the recipient would not be expected to pay when dealing at arm's length.

For beneficial services, distinction is made between 'integral' and 'non-integral' services. 'Integral' services are typically required to be compensated at arm's length market returns, rather than just cost reimbursements. 'Non-integral' services may be allocated among the service recipients at cost without any markup.

Intercompany loans

The regulations give the IRS authority to make appropriate allocations to reflect arm's length charges for direct or indirect intercompany loans or advances. Treas. Reg. §1.482-2(a)(2)(i) defines an arm's length interest rate as 'a rate of interest which was charged, or would have been charged, at the time the indebtedness arose, in independent transactions with or between unrelated parties under similar circumstances'.

Most intercompany transactions in the insurance industry deal with the transfer of services.

Transfers and development of intangible property

Valuable intangible property is usually needed to successfully conduct an insurance/reinsurance operation. The arm's length standard requires the beneficiary of such intangible property be charged an arm's length price, royalty or license fee, unless the affected members engage in a qualified cost sharing arrangement (CSA) to jointly develop, and effectively own, the intangible property. A qualified CSA limits the IRS's ability to reallocate income; that is, only costs in relation to the anticipated benefits can be reallocated.

Important insurance/ reinsurance intercompany transactions

We summarise below some examples of transactions typically encountered in multinational insurance and reinsurance operations that may have transfer-pricing implications.

Reinsurance

Member companies often write reinsurance contracts with other members of the insurance group. Such transactions are generally complex in nature, and premiums paid for the controlled transactions can be difficult to benchmark as each insurance and reinsurance contract has specific risk levels, actuarial assumptions and coverage.

Brokerage/underwriting

Brokerage and underwriting services are integral functions of the industry. There are many providers that specialise in insurance underwriting and brokerage services, and financial data from published industry resources may be readily available to test the intercompany transactions. However, such data is often reported at such an aggregate level that comparability cannot be readily established.

Asset management

The return earned on investing the premium collected contributes to the ability of insurance companies to meet their claim obligations.

To the extent that such investment and asset management capabilities are concentrated in certain parts of the overall group, an arm's length charge must be made for the services provided to other members of the group. Specific factors that may influence the pricing of such services include the type of assets managed, level

of activities carried out, risk involved, volume of transactions, expected returns, and expenses of providing such services, etc.

Provision of financial guarantees and services

The provision of financial guarantees is an important aspect of insurance transfer pricing. Such guarantees can include claims guarantees, loan guarantees, net worth maintenance agreements, etc. Pertinent factors that need to be considered include the type of security or collateral involved, the credit ratings of guarantee providers and recipients, market conditions, and type and timing of the guaranty.

The nature of the industry may require a large volume of intercompany lending and advances. Careful analysis should also be performed to ensure that the interest or fees charged are arm's length. Factors to consider include the amount of the loan, duration of the contract, underlying currency, the applicable market interest rates and borrower's credit standing.

Administrative support

Administrative services typically fall under the category of 'non-integral' services, often charged out at cost. The major challenge is allocating the direct and indirect costs associated with those services that benefit more than one specific affiliate. Generally, the IRS will respect the allocation factors if they are reasonable, follow sound accounting practice and are consistently applied.

Provision of intangible property

Insurance companies use valuable intangible assets such as proprietary pricing and risk analysis/management programme, internally developed claims tracking systems and other company-specific industry know-how. Marketing intangibles, such as trademarks and brand names, are also becoming increasingly important for insurance companies.

The very nature of intangibles – the uncertainties involved in development and the lack of exact comparables – makes their valuation and the determination of associated arm's length charge difficult.

Penalty provision and contemporaneous documentation requirement

To the extent that additional income results from IRS transfer pricing adjustments, the IRS may impose two different penalties on these amounts:

Net adjustment penalty – if total overall IRC Section 482 adjustments exceed the

- lesser of $ five million or 10 per cent of gross receipts – 20 per cent of underpayment of tax
- lesser of $20 million or 20 per cent of gross receipts – 40 per cent of underpayment of tax; and

Transactional penalty – if the value claimed on the return for a specific transaction was

The very nature of intangibles makes their valuation and the determination of associated arm's length charge difficult.

- 200 per cent or more (50 per cent or less) than 'correct price' – 20 per cent of underpayment of tax
- 400 per cent or more (25 per cent or less) than 'correct price' – 40 per cent of underpayment of tax.

The penalties can be avoided if a taxpayer (i) reasonably applied a specified or an unspecified transfer pricing method (i.e., CUP method, CPM and PSM, etc.) and (ii) must have contemporaneous documentation supporting the transfer pricing methodology and provide such to the IRS within 30 days of request.

Other Country Rules

Although this article addresses intercompany pricing mainly from a US perspective, other nations in the Americas have similar rules and regulations, following the general principles of the OECD Transfer Pricing Guidelines for Multinationals and Tax Administrations.

In some instances, the requirements are more stringent than prescribed.

For example, the Canada Customs and Revenue Agency obligates each taxpayer to annually complete the Information Return of Non-Arm's Length Transactions with Non-Residents (Form T106) and indicate on it whether contemporaneous documentation has been completed and the transfer pricing methodology applied.

In Latin America, Mexico requires filing Information Return for Transactions with Related Parties Abroad (Form 55), and Argentina requires two information returns (Forms 742 and 743) be filed each year, submitted to the tax authority along with the general income tax return, copy of financial statements and contemporaneous transfer pricing documentation – each page signed by an independent public accountant.

[1] A taxpayer may select a method that is not specified in the regulations, provided the taxpayer can demonstrate that the unspecified method provides the most reliable measure of an arm's length result.

[2] The Resale Price method is generally applied in distributor relationships, while the Cost Plus method is generally applied in situations involving manufacturing

[3] The CUP method is analogous to the comparable uncontrolled transaction (CUT) method, which pertains to the transfers of intangible properties and is prescribed under Treas. Reg. §1.482-4(b).

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In Retrospect

Nirmala Ayyar

It was indeed a pleasure to go through the December 2003 special annual issue of **IRDA Journal**. The spotlight was on various interesting topics ranging from pricing to prospects. It was an interesting journey from first page to last.

A tally is always between the positive and the negative. A reckoning, on the other hand, is the ability to face facts. One gets the impression that in the final reckoning, the usual hype has effortlessly overtaken the willingness to face facts. There is a good deal of repetition of the Malhotra Committee's stand, as if there have been no further developments since then.

Nobody can deny that opening up the sector to privatisation has brought in a breath of fresh air into the stale attitudes within and without the industry. Nobody can deny that foreign investments and new perspectives are good for the health of the industry. But then, we need to have the courage to look closely at both sides of the coin if we are to really benefit from the bold steps taken by the country so far. The intention here is to look closely at some of the myths relating only to the life insurance industry, and like the new generation of psychologists, to let the myths be turned to good account for strengthening the psyche of the industry.

The first myth is regarding products. This is a crucial aspect of the entire gamut of action. The accusation against LIC was that it did not have products to suit the needs of the people. As per the statement of its Chairman, as on date it has 58 products on the table. This is the remainder after the withdrawal of at least an equal number as not appealing to people.

Certainly quite a few of the new plans are old ones metamorphosed into new names, with no variations in basic structure. But when you consider also the plans that failed, there are practically no permutations and combinations that have not been tried by LIC in traditional insurance.

What it had not offered and what are value additions from the new players are the investment-linked plans and health benefits.

The legitimate accusation against LIC in this area could be why it could not have made this small addition much earlier since it was very well aware of world trends? Even today, as all insurers are aware, there is not adequate data in this area to build on. Morbidity rates are not available for select lives. The erstwhile GIC companies did not make much headway with Mediclaim.

The experiment is new even for western countries. The difference is, countries like the UK and the US have the advantage of a National Health Service kind of system which could provide them with reliable data and reliable service.

The medical scenario in India, in terms of administration, is not something that reassures either old or new players. These are unchartered waters and the only consolation is that everybody is in it together.

The need may not be for a fancy bouquet of high sounding products which neither the agent can explain nor the prospect understand.

Earlier, medical help/relief was not widely available but, where it was, it was affordable. The enormous cost increase in health services is a comparatively recent phenomenon, synchronising with advances in the field of medicine, which has created a good demand for these health products.

The only present addition is the enormous market created for Term Assurance. Certainly Term Assurance offers pure risk cover and is therefore true insurance. All the same, a Whole Life policy which is only slightly costlier is a win-win policy, since both the insurer and the insured benefit.

On the other hand, term insurance, especially if it combines long term with excessively high sums assured, is a lose-lose policy. If there is a claim, the insurer loses. Whether there is a claim or not, the life assured loses. Is creating this huge competitive market for Term Assurance, with furious undercutting, in anybody's interest?

Possibly, the need may not be for a fancy bouquet of high sounding products which neither the agent can explain nor the prospect understand. A set of independently structured riders that can be attached to a basic plan as per the selection made by the prospect, and thus provide the satisfaction of a customised product, is more likely to meet a variety of needs.

The number of products sold should not be a criterion to judge the success of a company. The Life Fund build-up and the popularity of its available products should provide better evidence. The true need of the hour is the right sales strategy. The innovative genius of the companies has a huge playing field in this area. The lack of attention to this crucial area is manifest in various phenomena. One such vital area is rural business.

When the Government stipulated that the insurers should contribute to the growth of insurance among the rural population, there were two mandates inherent in that. One is to take the benefit of insurance cover to the rural population, and the other was to prevent a drain of the metros by the new players, forcing LIC to provide philanthropic support in rural areas, which is not consistent with the demand to provide a level playing field. And so we move on to a consideration of the next myth: Rural business.

(To be continued)

The author, after retirement from LIC as Chief (Data Control and Purification), is Consultant, Software Implementation and Back Office Processes, AMP Sanmar Life Insurance Company.

Report Card:GENERAL

January Premium Growth Dips to 9.5 %

G.V. Rao

Performance in January 2004

January 2004 has recorded a market increase of Rs. 116 crores (9.5 per cent growth) in non-life premium to reach a monthly premium level of Rs. 1,354 crores.

While the growth rate of 9.5 per cent is below the average recorded so far of 12.3 per cent up to the period in the current fiscal, what is more revealing is the fact that with the exception of National Insurance that has recorded an increase of Rs. 58 crores in January 2004 premium, the other three public players have recorded a fall in their monthly premiums: Oriental by Rs. 26 crores, New India by Rs. four crores and UIIC by Rs. 0.5 crores making it a net combined growth of Rs. 28 crores. For the first time National Insurance has recorded a higher monthly premium of Rs. 313 crores compared to New India's Rs. 311 crores.

Against the monthly accretion of Rs. 28 crores (2.5 per cent growth rate) of the public players, the private players have recorded an impressive accretion of Rs. 87 crores (70 per cent growth rate) demonstrating that they are the dominant sector in the expanding market.

Why are the public players not shining – with National Insurance as the sole exception – in the competitive environment wherein the entire country is made to feel good with the stock market moving northward? How will the Special Voluntary Retirement Scheme (SVRS) now introduced impact the growth prospects of the public players in the next two months, and more importantly in the next financial year? What makes the private players so dominating in gobbling up the quantum increases – perhaps at the expense of the public players? Should the tariff rates, now proving to be burdensome in their application for public players, be done away with? What do public players now under pressure want as the criteria for a level playing field?

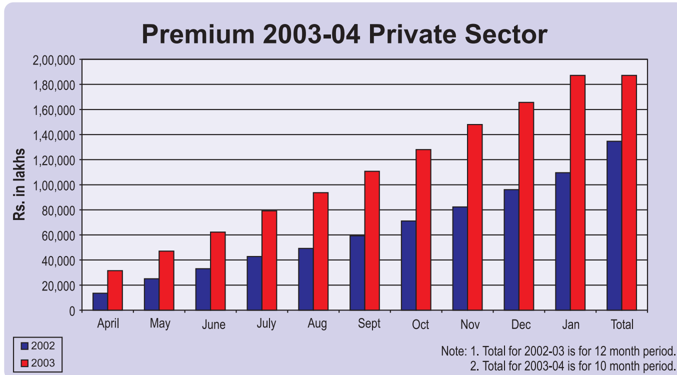
The ranking among the private players has stabilised with ICICI Lombard, Bajaj Allianz, Tata AIG, IFFCO-Tokio and Royal Sundaram leading the group. HDFC Chubb is catching up fast.

The trends now emerging show that the strategy of private players to acquire market share is to whittle away the existing corporate accounts of the public players than to make efforts to really widen the market base

Gross Premium Underwritten – January 2004

(Rs. in lakhs)

Insurer	Premium 2003-04		Premium 2002-03		Market share upto January, 04	Growth % Year on Year
	For the month	Upto the month	For the month	Upto the month		
Royal Sundaram	2,463.61	21,133.35	1,954.41	15,173.88	1.60	39.27
Tata AIG	3,146.82	30,049.40	2,031.27	18,481.10	2.27	62.60
Reliance General	821.71	14,521.74	466.34	16,658.10	1.10	-12.82
IFFCO-Tokio	2,837.23	26,532.34	1,752.05	17,331.77	2.00	53.08
ICICI Lombard	5,358.20	40,362.62	3,384.60	17,427.62	3.05	131.60
Bajaj Allianz	4,745.03	38,502.49	2,923.07	23,498.77	2.91	63.85
HDFC Chubb	1,244.26	8,393.92	173.28	394.03	0.63	2,030.26
Cholamandalam	900.33	7,645.05	95.72	636.45	0.58	1,101.20
New India	31,117.00	3,22,949.00	31,522.00	3,21,722.00	24.38	0.38
National	31,318.00	2,83,911.00	25,654.00	2,36,824.00	21.43	19.88
United India	23,341.00	2,57,883.00	23,283.00	2,49,389.00	19.47	3.41
Oriental	24,391.04	2,41,717.15	27,048.35	2,37,305.61	18.25	1.86
ECGC	3,686.23	30,974.29	3,492.27	24,394.24	2.34	26.97
PRIVATE TOTAL	21,517.19	1,87,140.91	12,780.73	1,09,601.72	14.13	70.75
PUBLIC TOTAL	1,13,853.27	11,37,434.44	1,10,999.62	10,69,634.85	85.87	6.34
GRAND TOTAL	1,35,370.46	13,24,575.35	1,23,780.35	11,79,236.57	100.00	12.32



that is more expensive. The infrastructure of the private players is still urban oriented and focused mainly on acquisition of corporate accounts. It is not clear yet when the private players will start expanding their infrastructure for the uninsured public to experience the benefits of private sector competition. It is now time they moved on to wider pastures and are held to greater account for current competition to stay healthy and beneficial to the vast uninsured public.

Performance up to January 2004

The non-life premium at the end of 10 months in the fiscal has shown a growth rate of 12.3 per cent and an accretion of Rs. 1,450 crores to reach a premium level of Rs. 13,250 crores. The contribution of the four public players to this increase is Rs. 612 crores with National Insurance contributing Rs. 412 crores (20 per cent Growth), UIIC Rs. 85 crores (3.4 per cent), Oriental Rs. 45 crores (1.9 per cent) and New India Rs. 12 crores (0.4 per cent). ECGC has recorded an accretion of Rs. 66 crores (27 per cent).

The private players have contributed Rs. 775 crores (71 per cent growth). The quantum increase by private players is higher by Rs. 163 crores over the increase achieved by the public players. ICICI Lombard has recorded an increase of Rs. 230 crores (132 per cent), Bajaj Rs. 150 crores (64 per cent), Tata AIG Rs. 115 crores (63 per cent) and IFFCO-Tokio Rs. 92 crores (53 per cent). Royal Sundaram, HDFC Chubb and Cholamandalam have also performed well.

The market share of the public players is running at 86 per cent and it could well be that this may go down by another couple of percentage points if the current trends continue for the next two months.

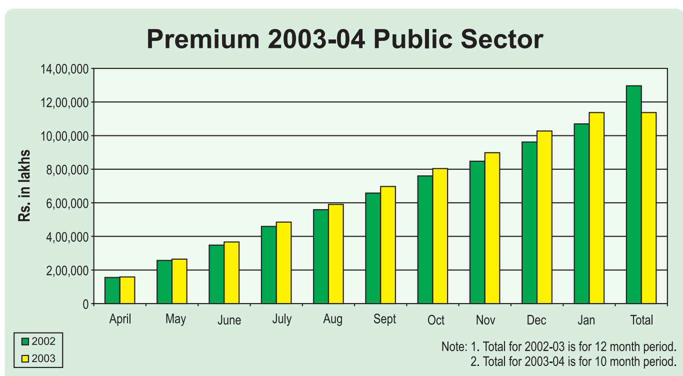
Prospects

How will the growth prospects of the players shape up in the next two months? How will the year end for the non-life industry as a whole? With the stock markets rising, investment and other income will assuredly go up putting a gloss on the overall profits. Costs would, however, rise due to poor growth rates, increased expenses and rising claims.

The effect of SVRS in the next two months and beyond on the public players will be that more executive time will be spent in dealing with staff related issues and less on marketing and customer related issues. The momentum that has already slowed down in the current fiscal for three of the public players will come under greater strain resulting in more efforts required to be made for business retention.

Unlike public sector banks wherein customers are linked to the institutions, in the case of non-life insurance, they are linked to the individual staff.

The same policies have to be resold every year to the same customers and the individual contact between the particular staff member and the customer becomes a central point to build trust and confidence in each other. The severance that will occur in this relationship as a consequence of SVRS may have a more keenly felt negative impact than expected unlike in the case of banks with which parallels are often drawn.



Interesting times are ahead for the non-life industry. It is hoped that with costs cut and staff at more manageable levels the public players will gain more dynamism to give competitors a tougher fight.

How will the private players exploit the manpower exit in the public sector in terms of diversion of business, acquisition of new staff and widening their infrastructure? Will they grab the opportunity to expand their range of operations?

The next two months will throw up interesting trends of how the next fiscal, 2004-05, will shape up.

Hopefully the insuring public will benefit. Will they?

The author is retired CMD, The Oriental Insurance Company Ltd.

CONDUCT RULES FOR UK GENERAL INSURERS

The Financial Services Authority (FSA), UK, released the final conduct of business rules for the general insurance industry. Insurers and intermediaries now have a year to prepare for the start of general insurance regulation on January 14, 2005.

Ms. Sarah Wilson, Director of High Street Firms, FSA, said in a press note:

"The regulatory regime for general insurance is now in place. Insurers and intermediaries need to get cracking on their preparations for regulation.

"Insurers will also need to satisfy themselves that all the links in their supply chain affected by regulation become either authorised or an Appointed Representative. Insurers will not be able to continue doing business with unauthorised intermediaries. Importantly, this includes so-called "secondary intermediaries" - such as motor dealers, retailers or vets - that sell insurance as an adjunct to their main business.

Conduct of business for general insurance: The new regime will implement Insurance Mediation Directive (IMD) requirements and improve consumer protection. The final rules contain a number of changes aimed at clarifying and increasing the flexibility of proposals set out earlier. For example:

The amount of information that intermediaries need to provide about themselves to customers, known as status disclosure, has been significantly reduced where they are only doing the regulated activity of 'introducing', for example, passing on customer details to a provider and not making the sale itself.

Firms will now be able to renew contracts without the prior consent of the retail customer as long as their contract with the customer specifically allows them to do so.

Timescales for notifying commercial customers about renewal terms, or that the insurer does not intend to invite renewal, will not be prescribed. The rules require notification to be provided 'in good time' or before the policy expires.

Final prudential rules: The FSA has also published the prudential requirements for mortgage and general insurance firms, published in September 2003, which have been subject to minor technical change. Key points are: New guidance on 'by way of business' test. Additional guidance has been provided to help intermediaries work out whether they are doing insurance intermediation 'by way of business'.

Greater flexibility on professional indemnity insurance (PII) requirements: The PII requirements apply to individual firms. However, some policies are designed to cover more than one party, for example a group policy. The rules have been amended to recognise policies covering more than one firm.

Clarification of client money rules – mixing funds: The September 2003 rules required intermediaries to put safeguards in place to ensure that client money is adequately protected. Where client money is segregated, client money only may be held in the client account. This means that insurers' money cannot be mixed with customers' premiums.

A transitional rule is being introduced to allow intermediaries to treat insurers' money as client money for a period of 12 months. The rule requiring segregation will then come into effect unless the FSA concludes in the mean time that there is a case for re-consulting on the issue.

Clarification of agency relationships : The client money rules have also been clarified to indicate what might constitute an agency relationship. For example, a binding authority is an agency relationship with the intermediary acting as agent of the insurer. In such circumstances, customers' premiums must, therefore, be regarded as insurer's money. As a result, some smaller firms may find that they will not be subject to client money requirements and as a result, are subject to the lower capital and PII requirements.

Final rules for Appointed Representatives: The Appointed Representative regime is unchanged from the near-final rules. FSA has introduced some additional guidance to clarify the role of the lead principal

RGA - Fourth Quarter 2003 results

Reinsurance Group of America Incorporated, a leading provider of life reinsurance, reported net income for the fourth quarter (October to December) 2003, of $56.1 million, a 48 per cent increase on a per-share basis over the same quarter in the previous year. In the same period, net premiums increased 60 per cent to $942.4 million from $590.6 million in 2002. Net premiums in the quarter include $246.1 million associated with the recently completed transaction with Allianz Life.

Premiums in the US increased $277.2 million, or 68 per cent over the prior-year quarter. Approximately $246.1 million of that increase is from the Allianz business. For the year premiums increased 28 per cent. In the Canadian operations, net premiums increased 25 per cent for the quarter and 18 per cent for the year. Other international operations continued their strong growth, with net premiums increasing 46 per cent to $197.5 million in the fourth quarter.

Medicare to cover over 115 million Chinese in 2004

China's medical insurance system had covered nearly 109 million people by the end of 2003, and the figure was expected to exceed 115 million this year.

According to a recent national workshop on medical insurance, over 81.3 percent of the country's major cities have issued specific regulations to guarantee urban residents having no fixed jobs enjoy medical insurance, and some five million such people have participated in the system.

Mr. Wang Dongjin, vice-minister of Labour and Social Security, said China would further expand the coverage of medical insurance this year, trying to include more workers in private and mixed-ownership businesses, needy workers in state-owned enterprises and retirees.

"We would also explore the medical insurance problem for over 100 million migrant rural workers," Mr. Wang said.

Earlier Xinhua reports said that about 49 percent of the workers in state-owned factories, which used to be poorly managed, had taken out medical insurance by last November.

Mr. Wang said that the country has roughly completed the transformation of the welfare medical care system to a medical insurance system.

The welfare medical care system was established since the founding of the People's Republic of China in 1949, under which citizens' medical expenses were mostly paid by the enterprises or institutes they worked for. However, with China's economic reform, medical fees have become an increasingly heavier burden on the state-owned enterprises and government. In 1998, China started nationwide reform of the medical care system, in an attempt to lessen the government's burden and establish a medical insurance system.

The new system requires contributions more from individuals but less from the government so that a funding pool is built up to cover treatment costs at certain ratios.

The workers in state-owned enterprises are the first group of beneficiaries of the medical insurance system, and the country is planning to extend the scope of the system to non-state-owned and mixed-ownership entities within three or five years.

Meanwhile, the government is also promoting a cooperative medicare system, similar to the medical insurance, among rural areas on a trial basis.

In the countryside of Jiangyin City, east China's Jiangsu Province, each farmer contributing 10 yuan a year to a local cooperative can get 20,000 yuan (2,500 US dollars) for treatment.

Anhui Province in east China started to operate the medicare cooperative system in 1999, which requires each farmer participant to pay 10 yuan annually and the government to contribute 20 yuan to form the funding pool.

With average income only one-third of urban dwellers, farmers were more likely to suffer a financial crisis caused by illness, because they had to pay almost all their medical bills themselves, said Mr. Chen Xiwen, deputy director of the Development Research Centre of the State Council.

An effective medicare system in rural areas has a very important bearing not only on the health of all Chinese farmers, but also on the realisation of China's goal of eliminating poverty, said Prof. Fan Hesheng with Anhui University.

Creditor court win on HIH contracts

Creditors of the collapsed HIH group have scored another win with the early return of $300 million owed under two of the reinsurance contracts that were used to forestall Australia's biggest corporate collapse it is reported.

The New South Wales Supreme Court approved a deed to annul two reinsurance contracts written in 1999 with Hannover Re, returning to HIH creditors their $200 million premium and with interest and capital gains. The deal is the latest in a series of recoveries for creditors in the $6.2 billion collapse of HIH, now in the third year of what is expected to be a ten-year winding up.

Only last month the same court sanctioned a deal for $120 million to be paid to liquidator Mr. Tony McGrath by German insurer Allianz, for the 2001 purchase of HIH's general insurance business.

Judge Reginald Barrett said the money would be spread around six HIH entities: HIH Insurance, HIH Underwriting and Agency Services, HIH Casualty and General insurance, CIC Insurance, FAI Insurances and FAI General Insurance.

It has been nearly three years since the liquidator approached Hannover Re - one of the five largest reinsurance groups in the world - to end the deal five years early.

The chief agent at Hannover Re's Australian branch office, Mr. Ross Littlewood, blamed the delay on the liquidators quibbling over how funds would be distributed.

Mr. Littlewood said he could not put an exact figure on the amount being paid to the liquidators because the HIH group funds were held in a managed fund.

The Hannover Re deal was described in the royal commission into the HIH collapse as "a loan dressed up as reinsurance".

Under the contracts, Hannover was to provide HIH with $450 million over 10 years for a $200 million up-front payment.

But the deal was ended prematurely because Mr McGrath believed it was better to have "a bird in the hand" – according to one legal source – rather than leaving it with Hannover until 2009.

The commission found the transaction was one of seven episodes where the directors of HIH were kept in the dark, and which ended up collectively costing HIH more than $700 million.

Justice Neville Owen, who headed the Royal Commission that probed the collapse of the insurer, said the directors were not told the reinsurance contract was not genuine reinsurance. The contracts were used as a tool to effectively buy profits and lift reserves.

They added $450 million in reserves to HIH's balance sheet for a downpayment to Hannover of $200 million, and gave the impression HIH had a greater ability to pay claims than it really had.

LIC to continue Varishtha Pension scheme next year

Life Insurance Corporation (LIC) is reported saying that its Varishtha Pension Bima Scheme will continue next year also but the interest rate and other terms and conditions will be decided by the Government.

LIC also plans to withdraw its single-premium policy Bima Nivesh Triple Cover and relaunch it in March, its Chairman Mr. S.B. Mathur is quoted saying. The insurer will launch a new unit-linked scheme on the lines of Bima Plus, as part of efforts to meet its target of Rs 11,300 crores in first premium income and retain over 90 per cent market share by March end.

Finance minister Jaswant Singh had earlier said that the two schemes – Varishtha and Dada-Dadi bonds — will co-exist, but there was apprehension that the terms and conditions of the pension scheme might be changed.

The centre hiked the subsidy to Rs 150 crores for Varishtha scheme for 2004-05 from Rs 45 crores estimated for 2003-04 considering the overwhelming response from over 2.6 lakh pensioners contributing Rs 4,800 to 5,000 crores in premium so far. LIC targets to mop up about Rs 6,000 crores in premium from the pension scheme by the end of this fiscal.

A.M. Best Affirms "A" Ratings of GIC, New India

A.M. Best Co. affirmed the "A" (Excellent) financial strength rating of General Insurance Corporation of India (GIC) and of New India Assurance Company Limited (New India). The outlook for both companies is stable.

A.M. Best said GIC's rating reflects the company's excellent risk-adjusted capitalisation, its leading business profile in the Indian reinsurance market and excellent operating performance as a result of consistently high returns from its investment portfolio.

Offsetting factors include the company's reliance on its domestic investment and insurance markets and continuing weakness in the company's underwriting performance, particularly in the Indian Motor market.

GIC's high exposure to the domestic equity markets and its reliance on investment income were cited as offsetting factors. GIC continues to suffer from weak underwriting performance, particularly from its Motor account (25 per cent of gross premium written in the year to March 2003).

A.M. Best expects the company's combined ratio for this class to remain high at over 110 percent at year-end March 2004 (116 percent at year-end 2003), despite recent increases in tariff rates.

A.M. Best anticipates that failure to improve underwriting performance significantly may put downward pressure on GIC's rating.

New India's rating reflects the company's excellent risk-adjusted capitalisation, consistent returns from its investment portfolio and favourable growth opportunities in the Indian market.

Offsetting factors include New India's reliance on the Indian investment and insurance markets, continuing weakness in underwriting performance and increased competition arising from the admittance of international companies to the Indian market.

A.M. Best believes that New India's underwriting performance at year-end 2004 will be weak due to the inflexible nature of the tariff system in India. Seventy percent of business is priced on a tariff basis (mainly Motor and Fire business), and this is unlikely to change in the near future. A.M. Best expects the combined ratio at year-end 2004 to remain at the current high level of approximately 110 percent.

New India's market share is expected to decrease further following a reduction at year-end March 2003 to 24 percent from 32 percent the previous year. Competition has increased in India with the entrance of international companies following the liberalisation of the insurance industry three years ago.

However, A.M. Best expects competition to be offset by the overall growth of the insurance industry in India, anticipated to be in line with the 26 percent growth recorded in 2003. In addition, A.M. Best believes that net written premium from New India's foreign operations will continue to grow rapidly – a 28 percent increase to Rs. 8,574 million ($ 189.42 million) at year-end March 2003.

A.M. Best said New India needs to improve its underwriting performance significantly and reduce its reliance on investment income, to avoid future negative implications for the rating.

Private insurers are institutional bidders now

The Securities Exchange Board of India (Sebi) has awarded private insurers - both life and non-life- the status of qualified institutional bidders (QIBs), bringing them on a par with financial institutions (FIs) in case of public issues.

The move is expected to fuel public issues and IPOs as private insurers are now expected to bid more aggressively.

Thus far, Life Insurance Corporation of India (LIC) and public sector general insurers enjoyed the QIB status.

Prior to the permission, private insurance companies had to apply as non-institutional bidders meaning they had to pay up the margin money upfront, losing out on the return on investment for the period.

In addition, reservation for non-institutional bidders is 25 per cent of the issue size against 50 per cent kept aside for QIBs.

The balance 25 per cent is kept for retail investors.

In case of over-subscription and proportionate share allotment there is a significant difference in the allotment pattern for FIs and other bidders.

Social security scheme for workers

Prime Minister Mr. Atal Bihari Vajpayee launched a Workers Social Security Scheme for the unorganised sector in his parliamentary constituency of Lucknow. The scheme will be implemented in 50 districts of the country on a pilot basis.

Launching the scheme at a function organised by the labour ministry, the Prime Minister said there were 40 crore people who earned a living by doing physical labour, of which 37 crores were not members of any union. Of these the maximum were in the unorganised sector doing jobs like construction work or working as agricultural labourers. His Government, he is reported saying, was committed to giving this unorganised sector its due.

Terming the scheme a revolutionary step and one aimed at changing the existing system, the PM said the scheme would cover all the workers in the unorganised sector whose income was not more than Rs 6,500 per month.

The scheme would be financed by the contributions from workers at the rates of Rs 50 per month in the age group of 18-35 years and Rs. 100 per month in the age group of 36-50.

The contribution from the employer would be Rs. 100 per month and the Government contribution would be at the rate of 1.16 per cent of the monthly wages of the worker, he said.

Elaborating, the PM said the scheme provided triple benefits to the worker by way of old-age pension of Rs 500 per month and total disablement pension besides family pension in case of death of the worker.

Personal accident insurance of Rs one lakh was also provided for under the scheme, in addition to health insurance at a cost of Rs. 558 per annum for a family of five and Rs. 365 per annum for a family of three members.

Lloyds TSB to move insurance jobs to India

British bank Lloyds TSB Group Plc plans to hire 150 workers in India for its general insurance business as it tests the benefits of cheaper labour.

The bank will move 107 UK jobs to India from Bournemouth, England, and the Welsh city of Newport. It will also hire 43 Indian staff for work not already done in the UK.

None of the British workers will lose their jobs this year, a spokeswoman for the country's fifth-biggest bank said.

Lloyds TSB plans to have 1,500 workers in India by the end of 2004. British banks are trying to cut costs by hiring in India, where they can pay graduates as little as $200 a month to work in administration and to answer customer calls.

The bank said in November it would shut a call centre in Newcastle, northeast England, and move 750 jobs to India. The insurance jobs will give Lloyds TSB about 1,150 jobs in India.

Moving jobs abroad is "a key part of our plans to ensure the success of our business", the bank said in a statement to staff.

Lloyds TSB had previously said it would hire only 50 general insurance workers in India for the pilot scheme, finance trade union Unifi said.

"LTSB sees this pilot as a way of proving that they can make outsourcing to India work, rather than an open-ended test of whether the India proposition is good for the bank, its staff and its customers," Unifi said in a statement.

The insurance jobs leaving the UK include claims, telephone helplines and sales positions. The cuts are on top of 90 insurance job cuts in Bournemouth and Newport announced last month. The bank employs about 1,900 people in general insurance.

The company said it does not plan to shut the Newport or Bournemouth insurance service centres.

Commissions and Omissions

- General Insurance Financials - A Primer

P. S. Prabhakar

In this, the second part, let us analyse the import and impact of the Commission Ratios of a general insurance company.

Direct Commission Ratios

It is wisely said that there is nothing called a free lunch. This is of pronounced significance in the insurance business.

Insurance, as a product, is never bought but only sold. To procure insurance business, it costs. Hence, the word 'commission' has a very honourable import in this industry. How an insurance company has positioned itself in the local (direct) market can be gauged by not only the volume of the business it generates but also by the 'segmental' effect of it as well as the costs incurred to procure it.

For example, if an insurer's pie of business has a larger slice of Motor business, and that too at a cost that is considered 'tall', then it is possible to infer that the insurer's marketing efforts in the profitable areas is not that good and that he is making losses.

In the three decades plus of the monopoly existence in the business, the public sector's marketing efforts depended entirely on captive business of the erstwhile units, banker-driven insurances (for which cut-throat competition would exist amongst the development officers) and also mandatory insurances like Motor and Workmen's Compensation (WC).

The percentage of the 'true agency-force' procured business was indeed miniscule. Almost every development officer had a posse of 'benami agents,' the commission payments to whom were shared by many interested parties, after the customary – albeit illegal – rebating'.

Things began to change, however, after IRDA started professionalising the agency force. Hence, it really makes sense to look at ratios of this important procurement cost now.

As the Fire and Marine portfolios are essentially business community-centric, where parameters like paid-up capital of organisations and bank funding play an important role in the allowability of commission, the average rate of commission paid will always be low.

For example, for the year 2002-03, the Commission Paid ratios of National Insurance in Fire and Marine were 2.7 per cent and 2.1 per cent. In the case of United India Insurance, they were 3.3 per cent and three per cent.

Comparing the same with the other portfolios like Motor and Miscellaneous, we get the following picture: In National, they are nine per cent and 7.5 per cent and in United India, they are six per cent and 7.8 per cent respectively. (The figures of other two companies are not available).

> Commission rates (on Direct Premium) are almost structured across the industry as of now but with the entry of brokers the rules of the game are about to change.

The commission paid ratios will have to be necessarily compared between various companies to find out which company incurs lower procurement cost and scores better in this respect. Only such comparisons will induce the companies to perform better than the rest.

Commission rates (on Direct Premium) are almost structured across the industry as of now but with the entry of brokers the rules of the game are about to change. How this will affect and influence the commission ratios, and consequently the bottomlines, are yet to be seen.

The other variants like referral fee, brokerage etc. paid to the various middlemen will all come under the common terminology of 'Commission.' Though at present the ratios are in single digits, the emerging tough competitive scenario might soon push them up.

Reinsurance Commission Ratios

As said earlier, long before the term 'globalisation' was even coined, insurance became a truly global business. It is the concept of reinsurance that multiplies the risk-bearing capacities of the insurers several times over, gives truly global character to the business and enables spread of risks across nations, weaving an unseen, incomprehensibly massive, web of business network.

The practice of paying commission is not restricted to the procurement of direct business but is internationally prevalent among insurance companies for the reinsurance businesses they accept and cede. (In India even, the obligatory cessions to GIC are on 'commission' basis). Besides, the 'brokerage' payable to international reinsurance brokers also come under this broad term 'Reinsurance Commission.'

An Indian insurance company will receive commission from the reinsurance companies for the placements (cessions), and will pay commission for the reinsurance acceptances to the reinsurers. Both the cessions and acceptances will be on predetermined annual contracts, known as treaties and also on specific placements known as Facultative transactions.

Unlike the direct insurance commission, Treaty reinsurance commissions are highly unstructured and are entirely dependant upon the security rating the reinsurance companies enjoy, the spread of portfolio on the table, negotiating skills of the parties etc.

There are certain insurances (like Motor and WC) for which reinsurance treaties will not even be available on any terms, except the Obligatory Cessions and Excess of Loss treaties.

As far as Facultative placements are concerned, the commissions are discussed and negotiated like the other terms and conditions and are generally decided on a case to case basis.

In the profitable segments and more specifically in the profitable lines (bands) inside those segments, the Treaty reinsurance commissions on cessions will be very high.

In the international markets, we can see ratios at even upwards of 40 per cent. In the same breath, in a few facultative businesses, the insurers might even be happy to place reinsurances for very low commission percentages.

As the financials will reveal only the overall and 'average' picture, it will not be possible to discern how exactly reinsurance operations, which is, in fact the backbone of the insurance business and the final determinant of the profitability or otherwise of an insurance company, influences the bottomline.

In addition to the commission and brokerage normally payable, there are also 'over-riding commissions and 'profit commissions. The former will arise as an added incentive when the business volume exceeds expectations and the latter will depend on the performance of specific treaties.

Though the reinsurance regulations of IRDA require the companies to give their reinsurance programmes and treaty slips and also lay down certain procedures for making reinsurance arrangements, they maintain a stony silence on the terms of such arrangements including commission aspects.

And as for major Facultative placements, it appears that no information is mandatory. In many cases, what kind of reinsurance arrangements are entered into, with what companies, with what countries, on what terms etc. are not for public consumption. In fact such information is generally kept among a few senior executives and do not even percolate to the functional heads.

Calculation and analysis of the ratios of reinsurance commissions will throw light on how efficiently and carefully this all-important area is handled.

The public sector companies have ceded over Rs.4,400 crores and have also written an inward business of Rs. 580 crores in the financial year 2002-03. On an average, 20 to 25 per cent of these amounts are commissions.

Calculation and analysis of the ratios of reinsurance commissions received the reinsurance premiums ceded portfolio wise and reinsurance commissions paid to the reinsurance acceptances made and comparison within the industry will throw light on how efficiently and carefully this all-important area is handled.

Though the commission ratios will have to be separated and analysed for direct and reinsurance operations to assess the respective performances in these areas, the IRDA regulations, however, require the companies to disclose only the 'Net Commission Ratio' in the ratios section of the financials.

This 'Net Commission Ratio' means the proportion the *net commission* (meaning the direct commission paid plus reinsurance acceptances commission paid less reinsurance cession commission received) bears to the *net premium.*

This might give an overall picture but specific aberrations could get submerged. Depending upon the necessity to project the 'feel-good' factor, companies may decide to disclose the ratios.

The author, who used to work with the nationalised general insurance industry, is a practicing Chartered Accountant. In this series he will discuss the process of analysing the balance sheet of a general insurance company.

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http://www.irdaindia.org/irdajournal.htm

INSURANCE CONFERENCE

L to R: Mr. Chinubhai R. Shah, Vice President, Gujarat Chamber of Commerce & Industry (GCCI), Mr. C.S. Rao, Chairman, IRDA, Mr. Shreyas Pandya, President, GCCI and Mr. Kamesh Goyal, CEO, Bajaj Allianz General Insurance Company.

Gujarat Chamber of Commerce and Industry held a one day conference on Opening of Insurance Sector: Problems and Prospects, on January 8.

ACTUARIES MEET

The Federation of Indian Chambers of Commerce and Industry (FICCI) held its Sixth Global Conference of Actuaries in association with the Actuarial Society of India (ASI) in Delhi on February 18 and 19.

L to R: Mr. Liyquat Khan, President, ASI, Mr. C.S. Rao, Chairman, IRDA and Mr. S.B. Mathur, Chairman, LIC at the Sixth Global Conference of Actuaries.

LAUNCHED!

Insurance Professional, a magazine for insurance professionals, was launched recently by the Bangalore based Indian Council of Life Insurance Professionals (INCLIP).

The bimonthly, aims to help consumers, insurance professionals, agents and other stakeholders by providing information and free and frank views on all matters related to insurance says Mr. C. K. Karun, Chief General Secretary, INCLIP and Publisher of the magazine.

You can mail him on inclip@bgl.vsnl.net.in or call him on 080-2229108 to subscribe.

Certainly, 2003 was a good year for the Lloyd's market. We finally seem to be getting it right. The economics of insurance are suddenly making sense again for our shareholders. But despite all this good news, it is my firm conviction that 2004 will be the real test, not just for Lloyd's, but for the entire insurance industry.

Lord Peter Levene, Chairman,
Lloyd's of London

...a loan dressed up as reinsurance.

The Royal Commission report on HIH Insurance collapse describing HIH's arrangement with Hannover Re.

I am disappointed that products meant for rural areas and to meet the special requirement of socially disadvantaged sections have not come up in a significant way...there is an enormous appetite for savings instruments in rural areas and most of the rural branches of commercial banks are flush with deposits.

Mr. C. S. Rao,
Chairman, IRDA

Take-out financing offers higher coupon rates than picking up corporate debt paper. At the same time, as these projects are near completion and inflows have started coming in, there is negligible project risk....Security is paramount for us and hence we look at projects which are near completion.

Mr. S. B. Mathur,
Chairman, LIC

(Reinsurance) placements abroad should be allowed by IRDA only after an insurer has satisfactorily demonstrated that it has exhausted the domestic capacity.

Mr. P. B. Ramanujam,
Managing Director, GIC

In a liberalised market there should not by any stipulation regarding the statutory cessions to the GIC.

The A. C. Mukherjee Committee report

RNI No: APBIL/2002/9589

Events

March 2 - 3 2004

Venue: Singapore
Asian Conference on Run-Offs, Commutations & Exit Strategies by Asia Insurance Review

March 7 - 10, 2004

Venue: Delhi
14th Insurance Congress of Developing Countries organised by the Association of Insurers and Reinsurers of Developing Countries
Theme: Towards a more Dynamic and Responsive Insurance Environment

March 8 -13, 2004

Venue: Pune
Finance Appreciation Programme by National Insurance Academy (NIA), Pune

March 8 -13, 2004

Venue: Pune
Reinsurance Management (Non-Life) by NIA, Pune

March 12-13, 2004

Venue: Pune
F.A.I.R. Seminar on Risk Management and Loss Prevention organised by NIA, Pune

March 15 - 17, 2004

Venue: Pune
Succession Planning (Non-Life) by NIA, Pune

March 18

Venue: Mumbai
Seminar on 'Emerging Issues in Risk Management and Corporate Governance in Insurance Industry' organised by the Insurance Committee of the Bombay Chamber of Commerce and Industry.For further details contact Mr. N. Sharath, Tel. 2261 4681-84 Ext. 446 Email : vn@bombaychamber.com.

April 18 - 22, 2004

Venue: San Diego
RIMS Conference

April 20 - 21, 2004

Venue: Taipei
Pan-Asia Conference on Beating the Negative Interest Spread and Managing Investments for Best Returns by Asia Insurance Review in conjunction with ABeam Consulting, and together with the support of the Insurance Commissioner and the Ministry of Finance, Singapore.

May 27 -28

Venue: Hong Kong
5th Conference on Alternative Risk Transfers in Asia with Captives Workshop