

Report of the Committee on Insurance Broking

April 2013

INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY

Shri T S Vijayan
Chairman
Insurance Regulatory and Development Authority
Hyderabad

Respected Sir,

Re: Report of the Committee on Insurance Broking

In terms of your Order IRDA/BRK/MISC/ORD/052/03/2013 of the 14th March 2013, I have the pleasure in submitting the Committee's Report under the Terms of Reference given:

1. Review the entire IRDA (Insurance Brokers) Regulations, 2002
2. To review the existing practice and evolve a standardized process to assess the gravity of violation for imposition of appropriate penalties
3. To look into the possibility of allowing broker to apply afresh to the authority in case where the authority has cancelled or refused the renewal of licence of an insurance broker. Suggest the procedure to be followed by the authority under the circumstances
4. Any other matter related to Insurance Broking

The Committee has reviewed the evolution of the insurance brokers industry in India since the IRDA(Insurance Brokers) Regulations were passed in 2002, and compared it with models and performance of insurance brokers in other countries. The Committee has also interacted with various constituents of the industry to build a well-rounded view on changes needed to the 2002 regulations to unlock further value from the broker channel for the stakeholders in the next 10 years.

These findings form the bedrock of the recommendations presented in this report. The recommendations include modifications to existing clauses in the 2002 regulations, as well as new clauses that may be added to the same regulations. The Committee has included

the original regulations, proposed change, reasoning, and proposed amendment for each point in this detailed report.

The document is structured in 3 parts:

1. Introduction to the Committee's work; including the Terms of Reference, Acknowledgements, and Meeting details
2. Views on the evolution of the insurance broker channel in India
3. Recommendations for each point in the Terms of Reference with annexure where appropriate

Place: Hyderabad
Date: 30 April 2013

Suresh Mathur,
Chairman, Committee

Contents

Topic	Page
Introduction	6
Order of the Authority	7
Acknowledgements	9
Summary of Recommendations	10
Meeting details & discussions	14
Developments in the insurance industry in India	30
Evolution of brokers as distributors of insurance products in India	34
Comparison with international insurance broker models and performance	40
Recommendations on Terms of Reference	41
1. Review the entire IRDA (Insurance Brokers) Regulations, 2002	41
<ul style="list-style-type: none"> • Section I - Regulations 18, 20, 22, 23, 24 which need to be updated based on the experience gained during the last decade 	42
<ul style="list-style-type: none"> • Section II - Regulations which are suggested to be amended/ new regulations to be included 	45
<ul style="list-style-type: none"> • Section III - Regulations which are notified or to be notified elsewhere to be incorporated on a holistic IRDA (Insurance Brokers) Regulations 2013. 	58
2. To review the existing practice and evolve a standardized process to assess the gravity of violation for imposition of appropriate penalties	63

3. To look into the possibility of allowing brokers to apply afresh to the Authority in cases where the Authority has cancelled or refused the renewal of licence of an insurance broker. Suggest the procedure to be followed by the Authority under such circumstances	65
4. Any other matter related to Insurance Broking	67
Annexures	
Annexure-I: Documentation & Procedural requirements for obtaining Broker License	
1.1 Requirement for fresh broker license	72
1.2 Requirement at the time of renewal	75
1.3 Requirement to reconsider cancelled cases	76
Annexure-II: Digital Signature	77
Annexure-III: (Regulation 18) Payment of fees and the consequences of failure to pay fees	80
Annexure-IV: Co broking	82
Annexure-V: Reinsurance brokerage	87
Annexure-VI: Corporate houses promoting insurance broking companies in addition to doing insurance business	88
Annexure- VII Guidelines INV/GLN/007/2003-04- explanation on definition of “Group”.	91
Annexure – VIII Code of Conduct for Reinsurance Broker (Client(s) means Insurer or reinsurer)	94
Annexure- IX Proposed Detail of financial penalty for certain violation / breaches.	106

Introduction

A decade of experience has outlined ills and wells of the existing framework and effort has been made to ensure all the ills are adequately redressed and wells are at best preserved if not augmented. Enabling provisions considering India Inc.'s increasing global footprint with its changing needs, sophistication of risk assessment techniques and aspects of professionalism have been created.

In this report, the bottlenecks in the existing regulations have been identified and recommendations to address the same have been provided. A holistic single framework combining all the earlier notifications has been attempted. Penalties for violations have been sorely lacking and by enabling a framework for Penalties -fast tracking settlements with provisions for mediation have been suggested.

Appeals tribunal - an appellate body - its composition, terms of reference, function and time bound manner of dispute resolution has been suggested as codification which would give a right of appeal to the broking fraternity against the Authority's decision(s).

The Indian insurance market has undergone significant changes. Factors such as the country's economic growth, inclusion of lower income social classes into consuming markets, as well as the financial inclusion of such classes, have been contributing to the consolidation of a national insurance culture.

It is an avowed expectation that the culmination of dialogue with various stakeholders, assimilation of their need and articulation of the provisions would bring a maturity and sophistication to the regulations and enable the blossoming of the broking channel toward deeper Insurance penetration and increasing customer satisfaction.

This report analyzes the increasingly wide range of regulatory drivers for Brokers and examines ways in which the broking industry can balance these new demands, while keeping an eye on creating positive value for enhanced Performance. Effort has been made to address both the key challenges and opportunities for the broking industry, outlining ways to maximize the opportunities that this new dawn presents.

Order of the Chairman



बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY

IRDA/BRK/MISC/ORD/052/03/2013

Date: 14/3/2013

ORDER

After the opening of the insurance sector, IRDA had recognised the need for brokers in the Indian Insurance market way back in 2002 and issued IRDA (Insurance Brokers) Regulations, 2002.

As on today authority has issued 345 insurance broker licences and the licence is valid for three years from the date of issue. While attending renewal of licences as well as otherwise, the Authority has been issuing warning letters, imposing penalties wherever violations are observed by the authority at the time of renewing the licences or at the time of inspections.

Since a decade is passed after the notification of the insurance brokers' regulations and in lieu of the facts mentioned as above, it is felt to review the existing practice and evolve a standardized process to assess the gravity of violation for imposition of appropriate penalties while processing the renewal of insurance broker licences.

It is observed that the provisions as mentioned in Regulations 20, 22, 23 and 24 of IRDA (Insurance Brokers) Regulations, 2002 are breached on recurring basis. In some of the cases brokers have contested the orders of the authority whenever their licences are cancelled or authority has refused renewal of their licences. However, so far the courts have not given any adverse decision against the orders of the authority.

The Insurance act, 1938 or the IRDA (Insurance Brokers) Regulations, 2002 are silent about dealing with requests made by the insurance broker, in case where the authority has cancelled or refused the renewal of licence of an insurance broker. There is no mention of procedure to be followed in case such aggrieved brokers whose licence is cancelled or authority has refused to renew their licence either in the Insurance Act, 1938 or the IRDA (Insurance Brokers) Regulations, 2002.

In his budget speech, the Hon'ble Finance Minister has made an announcement that "Banks will be permitted to act as Insurance Brokers so that the entire network of Bank Branches will be utilized to increase penetration". As part of amendments to the Banc-assurance model Authority has placed an exposures draft wherein there is a proposal to allow banks to act as brokers so that banks can distribute the products of all insurers.

1



बीमा विनियामक और विकास प्राधिकरण
**INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY**

Recently, Authority has formed a committee to look into aspects of sub broking in India and the committee has submitted its report. The entire report is placed as an exposure draft in authority's web site seeking the comments from all the stake holders. If sub broking is allowed authority expects majority of the brokers will utilize this model and recruit sub brokers under their fold and this may pose new/further challenges in monitoring their activities and regulating the insurance brokers.

In view of the above it has been decided to form a committee with the following members;

- 1) Mr Suresh Mathur, Sr JD, IRDA- Chairman
- 2) Mr. Sujoy Bannerjee, General Manager, GIC – Member
- 3) Mr K Sanath Kumar, Genral Manager, New India Assurance Co Ltd- Member
- 4) Mr Anand Pejaware, Executive Director, SBI Life Ins Co- Member
- 5) Mr Sohan Lal Kadel, President, IBAI, Member
- 6) Mr Prabodh Chander,- Member
- 7) Mr Satish Hegde, OSD, IRDA- Convener

Terms of reference of the above committee includes the following.

- 1) Review the entire IRDA(Insurance Brokers) Regulations. 2002
- 2) To review the existing practice and evolve a standardized process to assess the gravity of violation for imposition of appropriate penalties.
- 3) To look into the possibility of allowing broker to apply afresh to the authority in case where the authority has cancelled or refused the renewal of licence of an insurance broker. Suggest the procedure to be followed by the authority under the above circumstances
- 4) Any other matter related to insurance broking.

The committee will submit its report on or before 30/4/2013.

**(T.S. Vijayan)
Chairman**

Place: Hyderabad
Date: 14/3/2013

Acknowledgements

At the outset, the Committee thanks Chairman, IRDA and Member (Non-life) for providing the Committee an opportunity to review the existing regulations governing the operation of insurance brokers and to suggest recommendations which may further strengthen the brokers' channel which is emerging as an important channel in distribution of insurance products.

The Committee would like to thank the Life and Non-life Council for sharing their valuable inputs and giving valid suggestions. The Committee also appreciates IBAI who shared their views with the Committee.

The Committee would also like to thank GIC Re for providing inputs on reinsurance operations to enable the Committee to firm up views on regulations to be provided for reinsurance/ composite brokers.

The Committee places on record its appreciation and thanks to all the persons, Corporates, Associations and Trade Bodies that have so generously given their time and shared their view points with the Committee at several Meetings, both in person and also through emails and letters.

The committee would also like to thank Mr. Randip Singh Jagpal, JD (Non-Life), IRDA for his valuable contribution particularly in reinsurance related matters.

Finally, the Committee wishes to acknowledge the help, assistance and co-operation it received from the employees in the Brokers Department in preparation of the report, especially Mr. DS Murthy, Sr AD and Mr Rambabu, Assistant Director.

Summary of recommendations

1. Review the entire IRDA (Insurance Brokers) Regulations, 2002

Section I: Regulations 18, 20, 22, 23, 24 which need to be updated based on the experience during the last decade

- i. Regulation 18: Payment of Annual Fees – The fees is reduced from 0.50% to **0.40%** of preceding year revenue. The minimum fee of the direct insurance broker is reduced from Rs 25,000 to Rs 15,000.
- ii. Regulation 20: Ceiling on business from single client: The ceiling is increased to flat 50% for any single Group for all time and Business emanating from Government body or PSU is excluded from this provision.
- iii. Regulation 22: Deposit requirement: In case banks are allowed to become brokers, then they will be exempted from having a separate initial capital. The banks will have to keep the following minimum deposit with IRDA's lien: Direct broker: Rs 50 lakhs/ Reinsurance broker: Rs 2 crs/ Composite broker: Rs 2.5 crs
- iv. Regulation 23: Segregation of money: The account shall be a current account, and cannot be combined with any other bank account.
- v. Regulation 24: Professional Indemnity Insurance: minimum and maximum limits of indemnity are now specified

Section II Regulations which are suggested to be amended/ new regulations to be included

- vi. Regulation 9: Consideration of application: training period reduced from 50 hours to 25 hours for Associate / Fellow of III or Diploma in Life insurance & General insurance from IIRM, Associate / Fellow of ASI, equivalent qualification based on Syllabus and examination of the CII or from an Institute recognised by IRDA.
- vii. Regulation 10: Requirement of capital: New clause on transfer of ownership added. The capital should be free from encumbrance and for effective ownership and control of the Shares must rest with the entity / individual approved by the Authority.

In case banks are allowed to act as insurance brokers, the non-Indian interest will be as per the sectorial cap applicable to banks as decided by RBI.

Exclusivity clause for banks recommended for deletion.

Minimum networth criteria recommended which is 80% of minimum paid up capital.

- viii. Regulation 12 - Validity of license: Provision for continuity of business recommended after expiry of license.
- ix. Regulation 13 (3) - Renewal of License: Requirements for renewal of license reduced.
- x. Regulation 4 - Functions of a re-insurance broker – additional functions for reinsurance brokers have been recommended.
- xi. Regulation 19 – Remuneration: For general insurance business additional remuneration of 2.5% of premium suggested for risk management services and further reimbursement of 2.5% of premium for administrative efficiency.
For life insurance business an additional bonus commission of 5% of the first year new business premium earned
- xii. Regulation 25 - Maintenance of Books of account, records etc: Tenure for maintaining books of accounts, records reduced from 10 years to 5 years provided the broker undertakes digitization of records. For banks acting as brokers, separate formats for reporting to regulator recommended.
- xiii. Regulation 27 - Internal Controls and Systems: Appointment of compliance officer for internal controls and systems audit for placing insurance business more than Rs 10 crores is suggested.
- xiv. Regulation 41: in case the broker's license is cancelled, then he can apply for a fresh license only after one year from date of cancellation.
- xv. Regulation 2: Definitions: LLP and Banks are eligible to apply for broking company license. Proprietorship and Partnership deleted from the definition of persons.
- xvi. Regulation 6: Direct broking license can be issued for following sub-categories: Direct (Life)/ Direct(Non-Life)/ Direct(Life & Non-Life)
- xvii. Regulation 21 Code of conduct – Code of conduct for reinsurance brokers strengthened.
- xviii. Regulation 26 Submission of half-yearly results: details of performance and financial report made part of half-yearly return

- xix. Regulation 28: Disclosures to the Authority: outsourcing for non-core activities recommended subject to framing of necessary guidelines.
- xx. Regulation 35: Cancellation or suspension of licence without notice: IRDA may maintain a data base of dishonest persons of broking company

Section III New Regulations

- xxi. Networking arrangement for foreign tie-ups is recognized subject to maximum sharing of 25% of brokerage with the foreign broker.
- xxii. Restriction of broking license - Single broking license to one corporate group dealing with Group companies. Limit of placement of business with one insurance company limited to not more than 25% of total business
- xxiii. Co-broking: co-broking with consent of client allowed.
- xxiv. Claims consultancy for a claim not exceeding Rs 1 crore is allowed.
- xxv. Mergers & Acquisition: M&A of broking allowed as per provision of Companies Act subject to prior approval of the Authority.
- xxvi. Nomenclature: inclusion of the words" insurance broker" in the name of every broking company made mandatory.

2. To review the existing practice and evolve a standardized process to assess the gravity of violation for imposition of appropriate penalties

- i. Graded regulatory actions by the Authority recommended for inclusion in the regulations based on the nature of violations.
- ii. To classify the penalties into minor and major so as to fasten the decision making
- iii. To establish a mechanism to adjudicate disputes between insurers and intermediaries
- iv. To establish single window complaint resolution system involving IBAI to attend the customers complaints.

3. To look into the possibility of allowing broker to apply afresh to the authority in case where the authority has cancelled or refused the renewal of licence of an insurance broker. Suggest the procedure to be followed by the authority under the circumstances

- i. In case of cancellation of broker license by the Authority, the applicant can apply afresh license only after a gap of one year from the date of cancellation.
- ii. It is recommended that the Authority may take up the issue of creating an appellate authority to hear appeals of the broking companies against the order of the authority under section 114 sub section 2 (m) of Insurance Act, 1938 with the central government.

4. Any other matter related to Insurance Broking

- i. For crop and rural insurances a mechanism to facilitate payment of premium and settlement of claims will be examined.
- ii. Authority may create provisions to allow banks to function as brokers
- iii. Authority may create exit policy for brokers
- iv. To look into the possibility of increasing the role of IBAI

Meeting details and discussions

The order constituting the Committee was passed by the Chairman on 14 March 2013, and the Committee was asked to submit its report by 30 April 2013. The Committee conducted two meetings at Delhi and Mumbai on 23rd March & 23rd April respectively before finalizing the report. In addition the members communicated their notes, views and comments telephonically as well as by their respective e-mail ids to save on time and take the maximum feedback from their respective life, non-life, re-insurance and intermediary sectors.

The presentation by the group of broking companies represented through the medium of IBAI was received. Extensive studies and discussions took place amongst the life insurers represented through Mr. Anand Pejawar and his presentation made to the committee expressed concerns of the life insurers. He also had a separate interaction with bankers and educated the committee on their concerns. Mr. Sujoy Banerjee made significant contributions for the re-insurance practices followed by re-insurers brokers in India and abroad. He also expressed the concerns of the national re-insurer and welcomed the improved proposals for re-insurance broking business. Mr. Sanath Kumar briefed the committee members about the views of the general insurers and the constraints they perceive in the distribution of the insurance products. He also highlighted the perspective that the banking sector's foray into insurance broking should not harm the interests of the insurance agency system and that the quality of the insurance broking controls and contribution should not be compromised.

Mr. Prabodh Chander clarified each and every issue and the constraints expressed in the deliberations of the committee and attempted a positive approach to find solutions to the expectations of the regulator, insurance players and the distribution entities engaged in soliciting insurance business. Mr. Suresh Mathur, Chairman of the committee and convener, Mr. Satish Hegde appreciated the contributions of the members and led the committee to meaningful and purposeful deliberations all through the meetings and took upon themselves the responsibility of incorporating all the issues that have been discussed in the meetings.

To illustrate a few, following were the issues that have been discussed and consensus arrived. The outcome of the consensus have been incorporated into various sections of the report and in the recommendations made in each of the terms of reference.

1. Terms of reference:

Members of the Committee discussed at length on each and every aspect of the terms of reference and decided to respond on each of the term indicating reasons and logic for the changes and the possible recommendations. Based on the rationale, a final decision may be taken by IRDA in undertaking amendments to the existing regulations and carrying out new additions to the Insurance broking regulations. It was also observed that paras 4 to 7 of the order dated 14/03/2013 have supplementary concerns to the terms of reference advised to the committee. Members took note of the same and gave suggestions on these supplementary concerns in the report.

2. Regulations which are frequently breached:

Such regulations were identified and related to: capital requirements, payment of fees by the broking companies, limits on the ceiling of the business from a single client, segregation of insurance money pertaining to insurers/clients, requirements of professional indemnity insurance, acceptance of premium and payment of remuneration during the pendency of the renewal of a license, utilization of the interest on the deposits having lien on the IRDA on the F.D. The committee therefore proposed: (a) to allow a flat 50% limit of ceiling of business of first year premium from a single client; (b) No limits of ceiling of business from single client in case of Public and Govt aided companies; (c) to find out the logistics and the reasons for negligence or breaches whether they are intentional or business practices or something is essential to be improved upon in the existing regulations.

3. Penalties:

The members submitted that the penal provisions are expressed in the Insurance Act and a detailed methodology could be incorporated in the regulations which will bring transparency and also act as a deterrent for deliberate and intentional attempts of breaches. As a way forward Annexure ix illustrates the approach that may be agreed upon; to be inserted into the broking regulations in the form of a Schedule.

4. Banks as brokers:

Insurers expressed concern about the survival of their agency system and the issues of conflict of interest that may arise if banks become insurance broking companies. Members also cautioned that the controls should not be diluted on the bank promoted entities. As a way forward, necessary details have been furnished in response to the terms of reference 4 and in section I, II & III of the responses given under the terms of reference.

5. Sub-broking:

Members expressed that since there is already an exposure draft available on the website of the IRDA, comments of the stake holders may be considered by IRDA as an independent exercise and not linked with the present TORs. Caution was observed to indicate that Authority may first see the outcome of the present deliberations and then move on to the sub-broking model, if needed.

6. Continuation of business at the time of non-renewal of licenses:

The broker bodies strongly commented about the delays in the renewal of the license and insurers also expressed their helplessness in utilizing the services of the brokers pending their renewals. It was decided to find out the reasons and recommend a solution which should be in the interest of the broking companies vis-à-vis consumers and insurers without prejudice to the law of the land.

As an approach to find a solution to the above challenge, it is suggested that there may be a three tier system of licensing procedure as follows:

(One) For seeking a new license as per the requirements of Regulation 6,7,8,9 & the documentations required for the same as has been provided in the Annexure-I of this report.

(Two) Seeking a renewal of the license on completion of 3 years of initial grant of the license as explained in the succeeding paragraph i.e.*(i),(ii),(iii), (iv),(v). The Form of the application seeking renewal license may be numbered as Form AA & the documentation required indicated in Annexure 1.1 of this report.

(Three) Grant of a fresh license to an applicant whose license was cancelled or renewal was rejected on certain: regulatory grounds, non-performance as per the existing regulatory system and professional conduct. Application for the same could be entirely separate and distinct from the procedure (one) & (two) referred above because the information and

certification required would be of a more serious nature as explained in the recommendations made under terms of reference 3 forming part of the report. The application form needs to be numbered as Form AAA forming part of the Schedule I of the broking regulations. The Annexure 1.2 of this report will give indication of the information required for consideration of such an application. The main parts of the Regulation 9 would be made applicable for the grant of a fresh license to such applicants with additional requirements specified in the Form AAA and the documents required as per Annexure 1.2

*(i). Regulation 13(1) may be made applicable except that the form for the renewal may be different than the form for the initial license. This form for renewal could be number as Form AA in the existing schedule I of the existing broking regulations.

*(ii) Regulation 13(2) - The requirement of 25 hours of training could be from IBAI or the institutes specified at S.No 16 of the chapter pertaining to meeting details, discussions and possibly the way forward.

*(iii) Modified Form AA(Schedule I) of Regulation 13(3) may be made applicable by virtue of which renewal application will be treated and dealt in a separate manner than exactly specified in Regulation 9 for grant of the initial license. Reason being the requirements of renewal need not be the same as were for the initial license because the due diligence required at the stage of renewal is of a separate nature and quality based on the actual performance and compliance of the regulatory system by the applicant. This approach will be less stringent and more efficient and on practical business principles.

*(iv) Regulation 13(4) and 13(5) may continue to be the same.

*(v) Procedure where the license is not renewed may be specifically provided in the Regulation 13 itself rather than linking it with Regulation 14 and 15.

Note: Regulation 14 & 15 may be suitably amended to also apply to cases where the license for a fresh application as indicated in approach (three) above and in the recommendations made in terms of reference 3.

7. Networking arrangement:

The insurers supported the broking companies to have networking arrangements, duly entered into in contractual and fiduciary capacity with the counterparties provided it is in service of the insurance needs of the clients without compromising the issues of conduct and performance of their statutory functions. The members were of the view that the complementary role of the networking arrangements should be allowed to the Indian insurance brokers for their overseas clients/ brokers and vice-versa with the responsibility

to act within the regulatory frame work. Accordingly the broker remuneration should be in relation to the work done & accountability established in regulations.

8. Reinsurance broking-payment terms:

The committee deliberated at length on reinsurance broking payment terms and was of the view that the code of conduct issues should be expanded in the re-insurance broking space. The committee also discussed the issue that when international broking companies participate in Indian insurance placements what should be the practice and how the remuneration needs to be shared. Similarly, when the Indian re-insurance broker needs the help of an international re-insurer broker, clarity is required on how the remuneration needs to be shared and how the difficulties experienced in booking of premiums and payment of claims are to be addressed. The committee was of the view that the role of the RBI is very crucial and the clear rules made in the Insurance Broking regulations will help the re-insurance brokers and insurers to transact the re-insurance activity with ease and practical sense of the business.

9. Can an insurer directly place the business with the reinsurance broker abroad: It was clarified that the insurer is free to place its re-insurance business abroad with Re-Insurer without utilizing the services of re-insurance broker. The availability of re-insurance broker is an enabling provision and not binding. However, if the Indian insurer while placing the business directly with the re-insurer abroad utilizes the services of a broking arm, it is incumbent upon him to utilize the Indian registered re-insurance brokers and through them, (if needed) utilize the services partially of an international re-insurance broker. The objective is to link the responsibility of the transaction to the Indian re-insurance broker and enable the Indian re-insurance broker to enhance the technical know-how over a period of time to enable the Indian market to act as a hub of re-insurance market. It is for these reasons that participation of the foreign re-insurance brokers into the Indian re-insurance brokers is by way of joint venture arrangements and the FDI is a medium for the same. Meaning thereby, that the technical skills of the Indian broking community are to be developed and practiced.

10. Forms – reporting and submission of annual report, standardization of minimum information required: It was clarified by the Chairman of the committee that the online system is getting firmed up and it will address the concerns of the Insurers/brokers. It was

desired that IRDA may act as a model regulator in standardizing the forms and information required to be exchanged between the registered entities of the IRDA so that a meaningful research is conducted by the IRDA and the market players for the purposes of development and reducing the cost of insurance operations. A yearly update in this regard may be made public by the IBAI for the benefit of all concerned.

11. Mandate

Obtaining a mandate from the insured for placing the risk is a limitation in life insurance as explained by Mr. Pejawar: while the requirement of mandate specified in the regulation may be working well for general insurance and re-insuring broking, it has some difficulty in the life insurance broking business. It was considered appropriate to flag this issue for further consultation with all concerned and then come to a logical conclusion. Necessary decision in this regard can form part of the IRDA guidelines in due course of time. Mandate needs to be served as a contractual arrangement between the insured and the broking company with fiduciary responsibilities attached on the broking company so that the same can be executed in cases of disagreement between the parties during the course of the performance of the mandate.

12. Out sourcing:

Outsourcing is a contentious issue. IRDA has permitted insurers to outsource certain non-core functions but the same are not necessary to be actually followed by the insurance broking companies. The functions of the insurance broking companies are such that they are better performed by the companies themselves. However they should be permitted to outsource some of their non-core activities if it is economical in running their affairs and their performance becomes better with the capabilities hired by them. The purpose is to enable the broking companies to acquire more knowledge, experience, technical expertise, develop more IT systems but not depend entirely on the outsourcing companies in which case interest of the clients may be compromised. The outsourcing agreements, with the help of inputs from the councils, IBAI, duly examined by the IRDA can be standardized and made public. These activities need to be monitored more regularly than the functions performed by Insurance brokers in-house.

If a decision is taken on the outsourcing issue the Standardization of service level agreement by the brokers with the parties of contract may be considered.

Recommendation

The outsourcing relationship between Broker and the service provider is supposed to be guided by a written contract that clearly spells out every material aspect of the outsourcing arrangement.

The agreement should specifically state terms of contract, rights and obligation of parties, including choice-of-law provisions and agreement covenants and jurisdictional covenants that provide for adjudication of disputes between the parties under the laws of a specific jurisdiction.

At a general level, the contract should define

- What activities are going to be outsourced, along with
 - Appropriate service and performance levels that a service provider is required to meet.
 - Right for continuous monitoring and assessment of the service provider and access to all books, records and information that is with the service provider and is relevant to the outsourced activity.
- A contract is also supposed to have a definite termination clause.
 - A minimum period to execute a termination provision,
 - The option to execute termination clause over a period of time should allow the outsourced services to be transferred to another third-party service provider
 - Such a clause is supposed to include provisions relating to insolvency or other material changes in the corporate form, and clear delineation of ownership of intellectual property following termination, including transfers of information back to the broker and other duties that continue to have an effect after the termination of the contract;

The terms of the contract cannot be such so as to prevent or impede the broker from meeting its regulatory obligations under IRDA or from exercising its regulatory powers of conducting inspection, investigation, obtaining information from either the insurer or the third party service provider.

A broking firm can terminate the contract with service provider on ground of mischief, fraud and non-compliance with terms and conditions of outsourcing agreement. In such cases

they are supposed to inform the IRDA with reasons for such termination. The Authority shall maintain a caution list.

13. Non- disclosure and false disclosure:

This discussion focused on the voluntary disclosures to be made by the broking companies not only to their clients but also to the insurers/re-insurers in addition to the regulator. Attention of the broking companies was drawn to: regulation 28 of the broking regulations, functions of the brokers and matters of the code of conduct whereby the specific provisions are made for their relationships with the clients, sales practices, furnishing of the information, explaining the insurance contract, handling of the complaints and advertising and such other matters. The non-disclosures and false disclosures are treated to be bad-in law, if they are intentionally not disclosed/ falsely disclosed.

14. Maintenance of CD with insurers- 64VB:

It was discussed that it is the duty of the insured to pay the premium as part of a consideration in purchasing the insurance protection and that nobody on his behalf (who does not have an insurable interest) can pay the premium as a motivation or otherwise.

The indemnity or the benefits of the insurance contract on the happening of the event covered in the contract belong to the insured/his legal heirs/his representatives/and those having insurable interest (at the time of insurance in certain contracts, at the time of loss in certain contracts and also during the course of contract for many contracts) etc. and nobody else is entitled for such indemnity/ benefits. Hence, payment of premium by the broker or the agent on behalf of their client is not called for.

However, Insurance brokers can, in certain emergency cases, make the payment with due disclosure and recover the same from the insured at the first available opportunity and within a very reasonable time. This window cannot be used for advancing loans or financing the premium as a matter of business practice. Insured can open a cash deposit with the insurer and in urgent cases with the insurance broker with the proper disclosure to the insurer concerned to enable the transaction to meet the requirements of section 64 VB and the mode of payment provided in the IRDA regulations pertaining to manner of receipt of premium. No broking company, by any means – whether direct or indirect, can benefit on account of interest or otherwise on the said CD or the insurance money of the insured/client/insurer

15. Crop Insurance

During discussions in the committee, the issue regarding payment of premium from small and medium farmers was deliberated upon. It was mentioned that in lieu of the hardships faced by the brokers due to lack of bank facilities in small areas, poor infrastructure facilities and lack of insurers' offices in these areas it is becoming difficult for brokers to comply with section 64VB. Committee is of the opinion that the Authority may look into this aspect and may relax/create certain provisions for brokers in lieu of the hardships faced by the broking community.

16. Training – institutes

During the course of discussions there were 2 schools of thoughts. One expressed that in addition to minimum 2 qualified/trained persons having undergone 100 hours of training and subsequently qualifying the NIA exam there should be another person heading the branch operations. The second thought process was that since all of the functions specified in broking regulation 3 & 4 are not dedicated specifically for soliciting/marketing of insurance business, why all the staff of the broking company should undergo the same training which is oriented for this objective. After the discussions and receipt of the comments, it is now clear that the functions stated below* are directly and indirectly related to soliciting of business where other functions in the said regulations could be attended by the other staff who are exposed to other kind of professional education and practical experience which necessarily need not be the same as is prescribed in the mandatory syllabus of training and examination.

*Broking Regulation 3(b),(c),(d),(e),(f) and (a),(c),(g),(h),(j), (m) of Regulation 4.

It is therefore advisable and practical to recommend to the Authority that the staff of the broking company not directly engaged in the soliciting of insurance/re-insurance business could attend other continuing professional insurance courses of the institutes such as IIRM, III, NIA, IBAI, institutes educating/examining participants on the syllabus of CII (Chartered Insurance Institute) or such other institutes as may be specifically approved by IRDA.

The minimum 2 mandatorily required qualified persons could act like underwriters, marketing heads, train the trainers i.e., teachers to develop further faculties of other staff and the requirement, if any, for more than 2 mandatory persons dispensed with. However, it should be made a specific responsibility of the directors of the broking company to run the affairs of the company through the qualified professional staff in terms of the clause 12 of the code of conduct relating to training. This approach will encourage broking companies to

enable their staff for better insurance education than the mandatory requirement and it shall be on continuous basis. This will be a flexible system operating on need basis and more oriented towards in-depth understanding of the Insurance activity than a mere statutory requirement. It will also reduce the cost and the staff will be motivated to develop their skills and faculties on their own and buildup loyalty with the employers.

IRDA had approved 10 Institutions that have been authorized to provide training for candidates appearing for examination of Insurance broker during the year 2002.

Authority may consider accrediting some of the existing agent training institutes (ATI) region wise for training the brokers. Authority may also consider conducting online examination for brokers (especially at the time of renewal of license).

17. Business plan:

Business plan: The issue was discussed by the members from a developmental angle and role of the IBAI was highlighted with a view that un-represented areas of the country are tapped by the broking companies without posing harmful competition to the network of agency system. One of the suggestive approaches is indicated herein below and this needs to be further streamlined from time to time.

Development:

(a) Insurance broker location determination (b) Development process (c) Insurance broker project plan (d) Development team

Marketing:

(a) The insurance broker product mix (b) Sales estimates (c) Analysis current product mix (d) Market analysis (e) Marketing goals & strategies (f) Competitive research (g) Pricing policy (h) Insurance broker operations (i) Advertising & promotion (j) SWOT analysis

Historic analysis:

(a) General view (b) The market position (c) Income statement historic (d) Balance sheet historic

The organizational structure:

(a) Management and personnel (b) Administrative organization (c) Contingency planning

Insurance broker operations:

(a) Insurance broker identity (b) Insurance broker location (c) Insurance broker premises (d) Insurance broker layout

Risk management:

(a) Risk reduction (b) Exit strategy

Financial plan:

The investment budget (a) Statistical data (ratios) (b) The return on investment (c) Financial projections

18. Defining group- Number of licenses – one group -one entity- one license:

Members discussed that definition of the client given in the note forming part of regulation 20(1) and expressed a view that this could be enlarged as the violations are taking place because of a limited view and a restricted approach followed. It becomes difficult to refuse business from a client even if the 30% limit is crossed by the contribution of a single client. Client needs service and competitive pricing. If a broking company is able to meet such requirements for their client, the 'group' of which the client is a part, may also like to utilize the services of an efficient broking company.

The way forward is suggested in the recommendation under terms of reference 1- section I as this ceiling level may be flat and kept at 50% in case of direct insurance broking. The ceiling limit may not be applied to Re-insurance broking. Moreover, business emanating from PSU/ the Govt., should not form part of this limit and that the group may mean an entity which has 10% or more of the ownership equity in the company i.e. the client as defined in the Regulation. In view of the required standardization for the definition of a group Annexure-VII of the report details the guidelines explaining the group. The same guideline may be followed while determining that one group has only one entity as an Insurance broker.

19. Standardization of service level agreement by the brokers with the parties of contract:

It was discussed that each broking entity has a different terminology and consequently, a difference in the conditions in the service agreements they offer in transacting their business. Standardization is required for the purposes of achieving an objective of quality and as a measure of service offered by the company. It enhances the degree of excellence, transparency, efficiency and negative discretion. It also streamlines the procedures and reduces the ambiguity in performance of duties by the broking companies. The consumer directly benefits from these measures. As a way forward, certain suggestions have been made in respect of standardization of service level agreements in the Serial No.12 pertaining to outsourcing which can be further expanded for each kind of agreement that may be executed between the parties and the minimum benchmarks kept in mind by the IRDA broking department while exercising due diligence in according approval.

20. Appeals :

The IRDA is an impartial and a quasi-judicial statutory body. There is no existing appeal provision available; like it is available in the capital market before the SAT. The broking regulations provide for an appellate jurisdiction in certain matters with the Chairman, IRDA. As a way forward if the suggestions made in the TOR 2 & 3 are accepted the system will be more credible.

21. Complaints

Grievance redressal: It was discussed that since the broking companies represent the customer they should be made responsible specifically in the resolution of complaints of the customers rather than merely acting as forwarding agents of such complaints. Competition demands that they should act in a harmonious manner with other insurance intermediaries and the insurers in reducing the causes of complaints and follow only those complaints which have a genuine cause. As a way forward, role of the IBAI is highlighted in response to the TOR 4. Role of the broking company in such matter is also explained in section III of the TOR 1. Suggestions in response to the TOR 2 has specifically been made to address the complaints resolution mechanism .If this is accepted we may be able to achieve an objective. Moreover the complaints and the disputes between the broking companies are also expressed in different forms of the complaints and impede the process of competition. There is therefore a requirement to immediately activate dispute adjudication procedure as envisaged in the IRDA Act. The ultimate jurisdiction of the complaint, when it becomes a dispute, is the course of law and the insurer if his contract in the form of policy is faulty or the services promised in the policy are not attended by him. However, IBAI may be made to act as a complaints resolution body through alternative dispute resolution system and enhance its value to the insurance market.

22. Consultancy

Claims and other areas specific to the insurance sector: The committee members debated the issue advising both pros and cons of opening up full scale consultancy in the insurance sector. Ultimately it refrained to remain within existing provisions pertaining to insurance broking. As a way forward following is submitted:

Claims consultancy to the broking companies has already been permitted by the IRDA in a limited way and is forming part of the Regulations proposed in the recommendations made

under Section II & Section III of Terms of Reference 1 and in the code of conduct. There is a separate provision under IRDA Act in the definition of Insurance intermediaries that IRDA can make separate regulations for insurance consultants but the same has not been acted upon in its full form as yet. A status quo is recommended at the moment and it is suggested that a full scale consultancy may not be permitted until the pending bill is passed and till such time the existing insurance intermediaries, agents, aggregators, distance marketing channels etc. are harmonized to perform their role in the interest of the market rather than their own individual interests. The consultancy is already recognized in the broking functions 3(i) and 4(e) as also in the column 4.3(d) of application form A as a source of income. This may continue with proper disclosures made to the Authority and the clients while incorporating necessary ingredients in the Service Level.

23. Functions of Brokers:

Members discussed that the role of broking companies is limited to the functions stated in Regulation 3 & 4. Insurers seemed satisfied and expressed a desire that a greater role can be provided to the brokers with equivalent accountability established on them. The caution remained that they should create a market and not attempt to poach on the agency system. The conventional role of tapping the existing market and competing on the existing business is not that desirable on pricing aspects whereas it is definitely desired on the service parameters. Representatives of the broking community highlighted several cases where brokers have much more flexibility and have even underwriting powers and have delegated the authority of claims service. They also expected an enhanced role on premium collection front and be able to assist the client in a meaningful way in cases of ordinary nature when the insured is not able to use the direct method of payment of premium in the office of the insurer. The brokers are interested to open an online gateway for receipt of the premium and transfer of the same to the insurer from the said portal if the ambiguity of restricting their activity is removed.

As a way forward IRDA can take a view to permit insurance brokers to maintain cash deposit facility for the insured and transmit the premium timely to the insurer there from. Even the online gateway system can be permitted to them with connectivity established with the insurers and the system made open for online checking/inspection by any Authority. This facility may not be extended for the payment of claim purposes. If the insurers wish to delegate certain functions to the broking companies by establishing a service level agreement (of course with the prior approval of the IRDA), this may be

permitted and the outsourcing guidelines applicable to the insurers relaxed to that extent. The brokers are not encouraged for soliciting life insurance business due to the threat perception of the agency system and the remuneration not at par with the insurance agents. This can definitely be looked into and level playing field for remuneration extended to the insurance brokers in the life business. The suggestion that has been made in respect of the Regulation 19 under response to the TOR 1 under Section II may be accepted.

Other recommendations made in respect of these functions under regulation 4 under Section II of response to the terms of reference 1 may be accepted. The core functions that have been recommended in response to the terms of reference may be accepted whereas certain delegation of outsourcing permitted to the broking companies. Role of IBAI, on its members, may be treated as self-regulatory to enable the IBAI to render clarifications, guidelines and advices on the functions and the code of conduct of the brokers. Individual clarifications of the IRDA on the basis of individual request of the broking company does not serve the purpose for the market as a whole and it may be better achieved if this role is better performed through IBAI. The recommendations made for the co-broking, outsourcing, re-insurance, consultancy and grievances may please be accepted to enable the broking companies to perform their role effectively.

24. Winding up of brokers- exit policy:

The members discussed the issue and came to a conclusion that while voluntary exit policy is practiced by surrendering license to the Authority, (though the regulations do not clearly provide for this), there is no statutorily specified exit policy. A view was strongly expressed that an unwilling/stressed entity should not continue in the market and there should be a way legally provided in the regulations for the exit. Even the mergers, acquisitions and transfer of shares should be frequently permitted with the due diligence exercised in the approval system. This feature may bring more activity and interest in the broking business. As a way forward, suggestions that have been made at Serial No. 4.3 in response to TOR 4 may be accepted.

25. Legal issues- arising out of court cases:

IBAI may be advised to perform the role of legal education to its members, interpret the decisions of the state consumer courts and formal superior courts(HC-SC) as that will enable the broking companies to be on the right side of the law and not earn liabilities(including a bad name) of regulatory breaches. If there are any legal issues arising

out of practices followed by the brokers including international practices and precedents, the same may be collated and a formal solution obtained on a consultative mode and even using the intervention of the regulatory Authority.

26. Time frame:

The members discussed these issues and wanted to express a concern to the regulator that non-disclosure of penal provisions, delays in the renewal of the licenses, absence of clarity on interpretation of the regulations and the precedents of decisions available with the Authority etc., are causing inefficiency and insufficiency of trust amongst the brokers, insurers and the insurance consumers. This may be set right by prudential guidelines while fixing the time limits of actions by the brokers, insurers and the regulator. As one of the way forward, three tier system of licensing is recommended in response to the TOR and is explained in S.No.6 of this chapter. The time limits have also been highlighted under regulation 12 & 13 in response given in Section II of the terms of reference 1 and the same may be accepted. Other methods to overcome this difficulty may be initiated by IRDA as its registered entities are open to accept any constructive approach in the interest of the consumers and development of the market.

27. Mergers and amalgamations:

This has already been addressed in the foregoing paragraphs and in response to terms of reference 4.

28. Capital requirements and networth:

The requirement of the capital, as discussed by the members, was decided to remain the same whereas a networth criterion was recommended to be provided in the regulations. The concerns about the interest on the F.D.(on which IRDA has a lien) were expressed to be made use by the broking company. It was also discussed that the broking business is costlier as compared to other intermediaries and the controls are also stringent as compared to other intermediaries including agents. The concerns about the indemnity insurance limits to be unlimited were also expressed. The training of the staff and a cost of regulatory compliance was treated to be a barrier in the development of the broking profession. It was quite difficult to address all the issues connected to the capital, return on the capital to the shareholders, possibilities of meeting the liabilities of the broking companies, issues of taxation etc. However, in a limited way forward, suggestions have

been made in respect of regulation 10 in Section II of the terms of reference 1 and the same may please be accepted. For the cost towards training details have been furnished in Serial No. 16 of this chapter which may please be read together. The investment restrictions on the capital in excess a requirement of the broking company may be eased out and made transparent. The functions of the broking companies which do not terminate into yielding a premium may be permitted to receive charges/remuneration by the brokers directly from the consumers with full disclosure thereto in their financial statements to the IRDA.

29. Remuneration – Life insurance:

This has already been covered in various parts of the recommendations made in the report. Discussions of the members centered around encouraging insurance brokers to fully involve themselves into procuring life insurance business and complement the role of agency since the potential is huge and country needs resources for providing protection to individuals. It was observed that brokers will be more focused towards rendering service to the life policy holders and carry their interests on a long run basis being their representative. Following may be treated as a way forward in this approach:

- In case of non-life insurance, it was proposed to have 2.5% more than the existing remuneration of 15%
- In case of life insurance, it was proposed to pay off the additional remuneration of 5% by way of “bonus commission” over and above the remuneration being paid to the individual agents, but within the limit of section 42E of the insurance act.

Developments in the insurance industry in India during the last decade

Growth of market

India's insurance industry has undergone major structural changes in the past decade. Both the life and general insurance sectors, which were nationalized in the 1950s and 1960s, respectively, saw across-the-board liberalization reforms in the insurance sector in 1990s, primarily to encourage more domestic investments to increase insurance coverage and create an efficient and competitive insurance industry. Since then, the Indian insurance sector has enjoyed rapid growth. As at end-September 2012, there are fifty-two insurance companies operating in India; of which twenty four are in the life insurance business and twenty-seven are in non-life insurance business. In addition, General Insurance Corporation (GIC) is the sole national reinsurer.

The life insurance industry recorded a premium income of '2,87,072 crore during 2011-12 as against '2,91,639 crore in the previous financial year, registering a negative growth of 1.57 per cent. While private sector insurers posted 4.52 per cent decline (11.08 per cent growth in previous year) in their premium income, Life Insurance Corporation (LIC), the fully state owned insurance company, recorded 0.29 per cent decline (9.35 per cent growth in previous year), in its total premium underwritten. While the renewal premium accounted for 60.31 per cent (56.66 per cent in 2010-11) of the total premium received by the life insurers, first year premium contributed the remaining 39.69 per cent (43.34 per cent in 2010-11). During 2011-12, the growth in renewal premium was 4.77 per cent (6.23 per cent in 2010-11). First year premium registered a decline of 9.85 per cent in comparison to growth of 15.02 per cent during 2010-11. The figures pertaining to FY 2012-13 are being collated by IRDA and will be included as and when these figures are made available.

In the non-life segment, the insurers underwrote gross direct premium of '52,876 crore in India for the year 2011-12 as against '42,576 crore in 2010-11, registering a growth of 24.19 per cent as against an increase of 22.98 per cent recorded in the previous year. The public sector insurers exhibited growth in 2011-12 at 21.50 per cent; as against the previous year's growth rate of 21.84 per cent. The private sector general insurers registered

a growth of 28.06 per cent, which is higher than 24.67 per cent achieved during the previous year. The figures pertaining to FY 2012-13 are being collated by IRDA and will be included as and when these figures are made available.

In a growing economy - low insurance penetration in terms of premium percentage to GDP, as well as increasing affordability on account of higher disposable incomes and savings, increasing urbanisation and increasing awareness, are some of the factors that would continue to fuel growth of the general insurance sector in India.

- **Penetration, future potential**

Insurance penetration is defined as the ratio of premium underwritten in a given year to the Gross Domestic Product (GDP). The insurance penetration in India, which surged consistently till 2009-10, has slipped since 2010-11 on account of slowdown in life insurance premium as compared to the growth rate of the Indian economy.

Life insurance penetration had consistently gone up from 2.15 per cent in 2001 to 4.60 in 2009, before slipping to 4.40 per cent in 2010 and further slipping to 3.40 per cent in 2011. However, penetration of the non-life insurance sector in the country has remained near constant in the range of 0.55-0.75 per cent over the last 10 years (0.71 per cent in 2010 and 0.70 in 2011).

Insurance density is defined as the ratio of premium underwritten in a given year to the total population (measured in USD for convenience of comparison). India has reported consistent increase in insurance density every year since the sector was opened up for private competition in the year 2000. However, for the first time in 2011, there was a fall in insurance density. The life insurance density in India has gone up from USD 9.1 in 2001 to USD 49.0 in 2011 though it reached the peak of USD 55.7 in 2010. The insurance density of non-life sector reached the peak of USD 10.0 in 2011 from its level of USD 2.4 in 2001

- **Trends in product, channel, market share**

Major trends discernible

- Personal/retail lines are expected to pick up momentum as a result of increasing income levels and changing life styles.
- High economic activity is expected to lead to higher growth in commercial lines of business.
- Increasing distribution channels for insurance products.
- Increasing focus on IT services in areas of policy management, claims settlement and CRM to control costs and improved speed to market

Risks coverage, benefits, price/premium and associated services form the key components of core features of an insurance product. The product design teams need to configure innovative combinations of these components to address specific segments needs and remove deterrents to buying insurance products.

Globally, insurers have designed innovative products targeted at specific ages, types of groups, professionals or people with disease at different stages. Instances of products with innovative coverage and benefits include wellness programs, access to preferred providers, reward and loyalty programs, provision of emergency services and guaranteed NAV ULIPs. Products with innovative pricing include “pay as you drive” for motor insurance and “co-payment claim products” for health insurance. Globally, some players are experimenting with use of telematics to offer “driving behavior -based pricing” for motor insurance products. However, the insurers will have to take caution against innovation that leads to more complicated products and design products which are simple and focused on offering the value desired from insurance by the customers

The identified product positioning requires appropriate communication channels which can reach geographically dispersed and socio-economically diverse target customer segments

Improvement areas in ensuring availability, policyholder protection, mis-selling, return to sustainable growth and efficiency/ profitability

With a view to protecting the interests of policyholders, the Authority has taken a number of initiatives. Guidelines relating to distance marketing have been issued by IRDA which address challenges relating to mis-selling using distance marketing mode, fallout of the advancement in technology. While the benefits of having new and faster channels need to

be reaped, the loopholes created by them need plugging and this is precisely what the guidelines are aimed at. IRDA has issued guidelines to agents for ensuring persistency of life insurance policies to ensure that servicing of policies by agents is sustained.

Carrying forward its discussion paper on the proposed Guidelines on Prospect Product Matrix for the Life Insurance industry, the Authority has put up the draft of the guidelines and the inputs received from the stakeholders are under the active examination of the Authority.

IRDA has taken several initiatives to protect the interests of policyholders. Policyholders have the right to expect insurance companies to keep the promises they make. When there is an error of omission or commission not consistent with expected or defined service levels, there is a deficiency, in service which results in giving scope for a grievance. Apart from providing a tool for monitoring disposal of grievances by insurance companies, the Integrated Grievance Management System (IGMS), enables IRDA to monitor market conduct issues and take necessary steps to ensure better protection of policyholders. The Authority has been carrying out a sustained campaign to create awareness about insurance grievance redressal systems, rights and duties of policyholders, etc., through various media. In an attempt to improve general public's understanding of insurance which helps them in making informed choices about the use of insurance services, the Authority has launched an exclusive website www.policyholder.gov.in for insurance education. The user friendly and menu driven website contains information in the simplest possible language about IRDA, buying insurance, making a claim, how to make a complaint under heading of consumer complaint, etc. It also encompasses information about the various initiatives taken by IRDA towards consumer protection, Handbooks on insurance for most common products providing details of coverage offered, Frequently asked questions, Policyholder servicing Turn Around Times (TATs), What to do in case of grievance, etc. IRDA is encouraging all insurers and other stakeholders to provide a link to IRDA Policyholder's education website in their respective website. It is expected that visiting the IRDA's website may help consumers to be in a better position while purchasing insurance products as per their requirements as well as to understand their rights and responsibilities as consumers of insurance products and services.

Evolution of brokers as a distributor of insurance products in India

- **Role of Insurance Broker**

An insurance broker has a fiduciary duty to act in the best interests of their client and provide sound practical advice independent of any insurance company's influence and do a need based selling.

An insurance broker provides impartial professional advice, based on years of training, education and experience.

A professional insurance broker deals with many insurers and has access to different types of policy wordings. They act for their clients and help them to decide what risks to insure, what types of cover are best and how much it should cost. They can also consider if there are other ways that the risk can be transferred such as self-insuring and other nontraditional insurance products. In many cases the insurance broker is most valuable in the event of a claim.

Broking is a hands on role requiring a combination of technical knowledge, business, communication, people and practical skills to get the best value to the client.

India is experiencing significant shifts in population demographics, standards of living, income, and education levels. Consequently, the insurance do not follow a standardised model for effective distribution channels. The necessity of innovative and flexible approaches to implementing distribution channels is well understood. Going forward, insurance Brokers should decide where they can compete most effectively, what their target market is, and where they will develop their distribution policy and capabilities to suit demographics, culture, and regulatory systems, innovating around product particulars and combining approaches are all likely to be successful strategies

- **Growth and contribution of channel since inception**

Non-Life Insurance in India:

Channel wise gross direct premium income and number of policies for Non-Life Insurers for the FY 2011-12

	Individual Agents	Corporate Agents		Brokers	Direct Selling	Others	Total
		Banks	Other Corporate Agents				
Premium (In rupees crores)	20917	3273	1239	9921	18566	3865	57964
Policies (in '000)	52396	7076	1986	5392	21775	3312	92308

Brokers contribution in Non-life is quite significant at nearly 17.12 % in premium and 5.8% in number of policies. This indicates that there is ample scope for the brokers to penetrate further in the market

Life Insurance in India

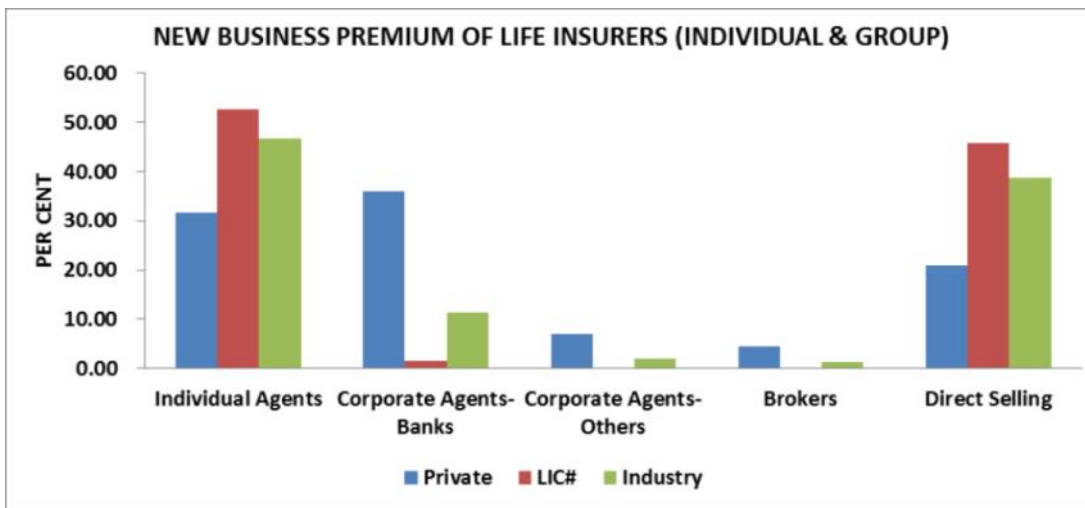
Brokers' contribution under private insurers is nearly 4.5% whereas in case of LIC brokers' contribution is as low as 0.05% and hence on overall industry basis the ratio of business contributed by brokers in Life is only 1.28%.

This clearly shows that there is ample scope for the brokers to contribute in life insurance growth in the coming years

**NEW BUSINESS PREMIUM (INDIVIDUAL AND GROUP) OF LIFE INSURERS
FOR 2011-12 - CHANNEL WISE**

Insurer	Individual Agents	Corporate Agents		Brokers	Direct Selling	Total Group New Business
		Banks	Others*			
Private	31.59	36.08	6.92	4.42	20.99	100.00
LIC#	52.55	1.51	0.12	0.05	45.76	100.00
Industry	46.64	11.25	2.04	1.28	38.78	100.00

*Any entity other than banks but licensed as a corporate agent.
Does not include its overseas new business premium.
Note: 1) New business premium includes first year premium and single premium.
2) The leads obtained through referral arrangements have been included in the respective channels.



Number of entrants, capital invested

The total numbers of licenses issued as on 31-12-2012 are 343, of which 294 are direct brokers, 43 are composite brokers and 6 are reinsurance brokers. The total capital invested by insurance brokers' works out roughly to rupees 300 crores.

Models deployed (Tele/ branch, Funded by manufacturers/ policyholders)

The distribution channels contribute by delivering on the promise made through the communications during the customer acquisition and servicing cycle. There is a need to deploy innovative distribution channels to significantly improve the ability to reach target customers and communicate the value proposition at optimal cost. Currently there is increasing use of communication and distribution channels like social media, self-help web-portals, bundling services with mobile service providers and alliance with malls. Work-site

marketing, groups like co-operative housing societies and unrelated products distribution channels are increasingly being leveraged to improve distribution reach.

There is also use of leveraged Self-Help Groups (SHGs) and Business Correspondent outlets of banks in rural areas to distribute micro-insurance products

Comparative business procurement practices and claims services rendered by various distribution channels recognized by IRDA

Agent	Broker	Corporate agent	Bancassurance
Single insurer	Choice of Insurers & comparison	Single insurer	Single insurer
Insurance advice	Risk advice	Insurance advice	Insurance advice
Existing terms	Develop market terms	Existing terms	Existing terms
No Risk assessment	Risk assessment	No risk assessment	No risk assessment
Transactional Claim	Claim advocacy	Transactional claim	Transactional claim
Retail Business	Corporate	Captive	Lending-Captive

Geographic presence

Insurance broker companies are head quartered in the following states and they cover the business from all parts of the country. However, the potentiality of the business is huge and efforts have to be made to enable the presence of the brokers in all other states and also in all commercial places including district headquarters of each state.

State Wise List of Insurance Brokers

Sl. No.	State	No of Licensed Brokers*
1	Maharashtra	110
2	Delhi	66

3	West Bengal	30
4	Tamil Nadu	30
5	Andhra Pradesh	22
6	Uttar Pradesh	23
7	Gujarat	13
8	Karnataka	13
9	Punjab	11
10	Kerala	10
11	Rajasthan	6
12	Chandigarh	4
13	Madhya Pradesh	3
14	Haryana	2
Total		343

–

The promoters of the above companies comprise variety of individuals and corporates such as professionals from the Insurance industry, promoters of Insurance companies, chartered accountant firms having strong relationships with the potential buyers of insurance, persons engaged in the capital market. There is a need to expand and attract talents and interest from other categories of promoters including banks so that the insurance penetration and service increases.

Life insurance policies are generally of long-term in nature. As such, in the interests of all parties, i.e., the policyholders, the intermediaries and other stakeholders, the insurer has to put in place measures to ensure that the policies remain in force all through their full term. The following are some of the issues that normally determine the persistency of life insurance policies:

Suitability of product: As the life insurance policies are generally long-term, in the event a product is found not suitable at a subsequent point in time or the product portfolio that is subsequently available in the market offers a different stream of benefits, there is a possibility of discontinuing the existing policies. While some factors are certainly extraneous, offering a suitable life insurance product by carrying out an appropriate need analysis of the prospects significantly improves the persistency.

Extraneous factors of policyholders: Owing to the changes in the social and economic profile of policyholders, there may be an impact on the ability of policyholders to continue the payment of premiums. This in turn results in affecting the persistency of the life policies. Despite these factors being totally extraneous, there is a role for insurance intermediaries in mitigating the levels of persistency even in these categories of policyholders.

Post Sale Policy Service: Absence of effective post sale policyholders' service may also trigger discontinuance of premiums. While largely insurers have a role in putting in place post sale policyholders' service within the reasonable reach of policyholders; in the Indian scenario, historically, Insurance Agents play a pivotal role in rendering post sale policyholders' service thereby ensuring persistency of life policies.

From the data on persistency trends in the Indian life insurance Industry for the past three years (2009-10 to 2011-12), it is observed that:

- The 13th month persistency has by and large improved over the last three years across companies.
- The 25th month persistency too has improved over the last three years for two thirds of companies.
- The 37th month persistency decreased for majority of insurers in 2010-11, but staged a recovery in 2011-12.
- Nearly for half of the companies, this ratio has decreased in 2011-12.
- With some exceptions, the 49th and 61st month persistency went down both in 2010-11 and 2011-12.
- The persistency ratios generally went down as the duration of the policy advanced.

The intermediaries have an effective role in improving the persistency rates both at the stage of pre-sale process, by way of carrying out a proper need analysis of prospects and during post-sale stage, in rendering effective policy service. This is brought out by IRDA on the minimum requirements on persistency, which has been kept as 50 per cent (to be reckoned in terms of number of policies).

Comparison with international insurance broker models and performance

Area	International Broking	Indian Broking
Handling premium	Allowed	Not allowed
Handling claims money	Allowed	Not allowed
Earn Interest on the fiduciary accounts handled	Allowed subject to norms	Not allowed
Broking license	Perpetual	Issued for a time period
Introduction - Referral fees	Allowed subject to norms	Not allowed
Brokerage	Earnings not capped in most mature markets. In other emerging markets earnings are capped similar to India	Earning capped and stipulated for various lines
Sub broking	Allowed	in the process of being considered
Professional Indemnity cover	Liability capped	Liability uncapped
Market share	Significant around 80% in mature markets. More so in corporate sector	10% of the market on the whole
Remuneration	In most markets additional remuneration in the form of risk management and additional services like administration, whole sale volume based are allowed to be collected from insurers	Currently additional remuneration from insurers was not allowed

Recommendations on Terms of Reference

Term of reference 1: Review the entire IRDA (Insurance Brokers) regulations 2002

1. Review of this is done in three sections

Section	Topic
I	Regulations 18, 20, 22, 23, 24 which need to be updated based on the experience gained during the last decade
II	Regulations which are suggested to be amended and new regulations to be included
III	Regulations which are notified or to be notified elsewhere to be incorporated on a holistic IRDA (Insurance Brokers) Regulations 2013

Section I Regulations 18, 20, 22, 23, 24 which need to be updated based on the experience during the last decade

S No	Existing Provisions of regulations	Proposed changes	Rationale for changes
1	Regulation 18: Payment of Annual Fees	<ul style="list-style-type: none"> • The fees will be calculated @ 0.40 % of the remuneration earned in the preceding financial year for all types of brokers • The minimum fees reduced for direct broker from 25000/ to 15000/ • . The maximum fee for Direct Brokers, as well as minimum and maximum fee for reinsurance and composite brokers continues to remain the same. 	<ul style="list-style-type: none"> • Brokers are paying fees annual fees while agents and other intermediaries' are paying only once in their validity of licence • The brokers are also have to pay the service tax
2	Regulation 20: ceiling on business from single client: an insurance broker can procure not more than 50%, 40% and 30% of its total premium from a single client in 1 st , 2 nd and 3 rd year & beyond respectively.	<ul style="list-style-type: none"> • The ceiling is increased to flat 50% for any single Group for all times. • This condition is not applicable to reinsurance broker and composite broker (reinsurance portion only) • Business emanating from Government body or PSU is excluded from this provision "Group" shall be defined as in <i>guidelines INV/GLN/007/2003-04</i> 	<ul style="list-style-type: none"> • Brokers should increase their penetration beyond their own/ Group customer base • Most regulators in the world have done away with this provision • This ceiling may be onerous for Small & mid-size brokers where a single big client would upset the percent overall hence dispensation to be extended except for captive brokers • The relevance and Applicability of this for Government and Public sector business as well as Reinsurance broking and Composite brokers with only Reinsurance component is in question and it needs to be reconsidered
3	<u>Regulation 22</u> : Deposit requirement: every broker has to keep a deposit of 20% of the initial capital in fixed deposit in a scheduled bank with	<ul style="list-style-type: none"> • In case banks are allowed to become brokers, then they will be exempt from having a separate initial capital. However they will have to keep the following minimum 	<ul style="list-style-type: none"> • FM in budget has made this policy announcement. • Banks are sufficiently capitalized and therefore need to be asked to have separate capital.

	IRDA's lien.	deposit with IRDA's lien: <ul style="list-style-type: none"> • Direct broker: Rs 50 lakhs • Reinsurance broker: Rs 2 crs • Composite broker: Rs 2.5 crs 	<ul style="list-style-type: none"> • However in order to have parity the minimum deposit has been made equal to the capital requirements.
4	<p><u>Regulation 23:</u> Segregation of money: In case of reinsurance business, the broker shall maintain a separate "Insurance Bank Account" for collecting premium from insurer and remitting to reinsurer and like-wise receiving claims amounts from reinsurer and passing it on to insurer.</p>	<ul style="list-style-type: none"> • The account shall be a current account and cannot be combined with any other bank account. • The procedure for breach of the above condition has been spelt out and depending on the severity of the violation Authority may warn, penalize or cancel the license. • IRDA will set controls and undertake periodic audits • Depending on the severity of any violation of the above regulation, Authority may warn, penalize or cancel the license <p>Even though not recommended in this report, Authority is requested to examine the entire issue of handling premium and claims money on direct side of broking with specific reference to its implication as per section 64VB of the Insurance act, deliberate and decide the appropriate time and the manner in which this can be introduced with adequate checks and balances for a smooth transition of Broking to the next level of customer service.</p>	<ul style="list-style-type: none"> • It is noticed that many reinsurance and composite brokers have breached this regulations as they divert the money to earn. As per the present practice IRDA has to cancel their licenses in cases where Authority is of the view that the amount is utilized by the broker for his own benefit. It is also fact that some of the brokers have approached the court against the cancellation order passed by the Authority. The reason for the proposed change is to bring more clarity in this regulation and operations of the Insurance Bank Account. <p>Fundamental changes in the market makes it necessary for insurance brokers to continuously redefine their roles. As prevalent in international markets, the brokers would need to assume in their role traditional transaction oriented services like accepting premium, issuing policies and settling claims.</p> <p>This would reduce the administrative expense of the insurer, bring greater convenience to the clients, reduce systemic risk.</p> <p>This would require bringing in additional checks and balances and very careful examination as to when the Indian market is ready to consider this.</p>

5	<p>Regulation 24: Professional Indemnity Insurance: every broker is required to have a professional indemnity insurance policy with following limits of indemnity for any one claims and in aggregate for the year:</p> <ul style="list-style-type: none"> • Direct broker: 3 times remuneration received in financial year with a minimum of Rs 50 lakhs • Reinsurance broker: 3 times remuneration received in financial year with a minimum of Rs 50 lakhs • Composite broker: 3 times remuneration received in financial year with a minimum of Rs 5 crores 	<p>Every broker will continue to have a professional indemnity insurance policy with following limits of indemnity for any one claims and in aggregate for the year:</p> <ul style="list-style-type: none"> • Direct broker: 3 times remuneration received in financial year with a minimum of Rs 50 lakhs and a maximum of Rs 50 crores • Reinsurance broker: 3 times remuneration received in financial year with a minimum of Rs 50 lakhs and a maximum of 75 crores • Composite broker: 3 times remuneration received in financial year with a minimum of Rs 5 crores and a maximum of Rs 100 crores 	<ul style="list-style-type: none"> • The Indian insurance market's capacity is limited and markets are not willing to write large capacities. Additionally, finding markets for the placement of large reinsurance is also a challenge. • Further, it has been noted that currently there is no limit on the liability of Brokers in an event of errors and omissions. It is felt that such unlimited liability is not conducive for the growth and development of insurance broking and as prevalent in other advanced markets it is proposed that the liability of brokers be capped to 3 times of the remuneration received by them for a particular transaction.
---	--	---	--

Section II Regulations which are suggested to be amended/ new regulations to be included

S No	Existing Provisions of regulations	Proposed changes	Rationale for changes
1	Regulation 9: Consideration of application: all persons who are soliciting and procuring insurance business have to undergo training and pass brokers exams.	<ul style="list-style-type: none"> Persons who are Associate / Fellow of Insurance Institute of India or Diploma in Life insurance & General insurance from Institute of Risk Management, Associate / Fellow of Actuarial Society of India , equivalent qualification based on Syllabus and examination of the CII or from an Institute recognised by IRDA have to undergo 25 hrs training and pass the examination. 	<ul style="list-style-type: none"> Broker training is very costly and impinges adversely on the broker's profitability.
2	Regulation 10: Requirement of capital: No provision on transfer of ownership	<ul style="list-style-type: none"> Add clause on transfer of ownership Where the capital of the Broking firm is in the form of equity shares the firm shall not register any transfer of shares unless where after the transfer the total paid up holding of the transferee in the shares of the firm is likely to exceed five per cent of its paid up capital unless the previous approval of the authority has been obtained to the transfer Further the Shares of a broking firm held as capital as per provisions of this section cannot be pledged in any form or manner to secure credit or any other facility and at all times should be an unencumbered capital. The effective ownership and control of the Shares must totally and completely rest with the entity / individual approved by the Authority 	<ul style="list-style-type: none"> Currently, any transfer of shares beyond 5% of the paid up capital requires prior approval from the Authority. The said limit was borrowed from regulations pertaining to insurance companies and can be applied to insurance brokers as such.
3	Regulation 10: Requirement of capital:	<p>A separate note may be added at the end of this regulation.</p> <p>Note: In case banks are allowed to act as insurance brokers, they will be exempt from maintaining minimum capital as required above.</p> <p><i>Note: Incase banks are allowed to act as insurance brokers, the non-Indian interest will be as per the sectorial cap applicable to banks as decided by RBI from time to time</i></p> <p>Please refer to the details given in TOR No. 4</p>	<ul style="list-style-type: none"> Authority is considering the possibility of allowing banks as brokers consequent upon the announcement made by Honourable Finance Minister in his budget speech.
4	Regulation 10 (1) (a)	10 (1) (a) An insurance broker under these regulations should satisfy the following	This regulation is required in lieu of the

conditions:

(i) it shall have a minimum amount of net worth as mentioned below:

- a. For a direct broker, the net worth of the broking company cannot at any time during the license period (of the broker) fall below 80% of the minimum capital requirement. Also, the direct broker would have to maintain a minimum amount of capital of INR 50 lacs at the time of renewal (of the broker).
- b. For a reinsurance broker, the net worth of the broking company cannot at any time during the license period (of the broker) fall below 80% of the minimum capital requirement. Also, the reinsurance broker would have to maintain a minimum amount of capital of INR 2 crores at the time of renewal (of the broker).
- c. For a composite broker, the net worth of the broking company cannot at any time during the license period (of the broker) fall below 80% of the minimum capital requirement. Also, the reinsurance broker would have to maintain a minimum capital of INR 2.5 crores at the time of renewal (of the broker).
- d. At the time of submission of renewal application, the minimum capital of brokers by category should be as follows:

Category of broker	Minimum Capital
Direct broker	50 lacs
Reinsurance broker	2 crores
Composite broker	2.5 crores

For the banks who may be allowed to act as broker the capital requirement is as defined in TOR 4.1

For the purposes of above clause, minimum networth will be calculated as equity capital (+) reserves & surplus (-) intangible assets (-) accumulated losses, if any.

experience regarding maintenance of capital at the time of renewal.

		(ii) The insurance broker is required to submit to the Authority a networth certificate duly certified by a Chartered Accountant every year after finalisation of books of accounts.	
5	<u>Regulation 12</u> - Validity of license	A license once issued shall be valid for a period of three years from the date of its issue. This can be amended pending appropriate changes in the proposed insurance bill and should be perpetual on the third renewal of the broking firm unless the same is suspended or cancelled pursuant to these regulations. <i>Note: Where a broker has submitted renewal application with all required documents to the Authority on time, he may continue to perform regular duties and functions after obtaining a letter of consent from the Authority. The Authority may issue a letter informing that they can continue their business for the next 90 days from the date of expiry of their license. The Authority may issue further subsequent letters informing the continuity for extension after the expiry of 90 days till they renew the broking license or decide otherwise..</i>	In the Indian insurance market, there are a number of brokers and the process of license renewal is comprehensive. It is felt by the Authority that non-renewal of the license in spite of submitting all the documents required for renewal on time may pose difficulties for the policyholders, and for the Brokers to conduct business.
6	<u>Regulation 13 (3)</u> - Renewal of License	The renewal application will be dealt with separately. Authority may call for some additional documents from the broker For details, please refer to Point No.6 (continuation of business on the topic of meeting details, discussions and possible way forward).	Renewal is different from new application.
7	Regulation 4. Functions of a re- insurance broker	Add clause on creation of Market capacity and facilities. 4(n) Creation of market capacity and facility for new, stressed, emerging and existing business and asset class for and from both direct insurers and reinsurers 4(o) With respect to reinsurance broker, inclusions to be made such as capabilities to understand reinsurance ratings, catastrophic risks arising globally, risk modelling abilities, controls related to use and segregation of client's money 4 (p) Render preliminary loss advice (PLA) within reasonable time 1. Brokers need to have trained personnel to handle specialised class of business for complex risks like oil and energy, aviation,	Rapid market developments in various industrial segments have led to increasingly divergent requirements that companies in the sector have of their insurance.

		<p>pure retro</p> <p>2. Given the nature of business, separate norms need to be followed for Inward and Outward business</p> <p>Inward business</p> <ul style="list-style-type: none"> • Broker to have adequate specific knowledge of the country whose business is being offered like: political stability, economic position, local regulations, tax laws, etc. • Introduce new business/ products depending on the reinsurers business plan and appetite <p>Outward business</p> <ul style="list-style-type: none"> • Rating and market credibility of the reinsurer <p>3. To ensure prompt collection and remittance of funds,</p> <ul style="list-style-type: none"> • Follow up for funds to be initiated sufficiently before the due dates for settlement from cedant to reinsurer and from reinsurer to cedant as relevant. <p>4. To ensure their expected role in claim advice and collection, following provisions could be considered:</p> <ul style="list-style-type: none"> • Broker to regularly provide preliminary loss advice and revised loss estimates • Broker to update <ul style="list-style-type: none"> a. The reinsurer on the treaty wise outstanding loss reserves at least on yearly basis b. Losses from CAT event to be identified separately in the claim bordereaux • Broker to ensure submission of supporting documents for speedy processing of claims at reinsurer's end • Broker to be restrained from offsetting non bordereaux claims in the statement of accounts 	
8	Regulation 19 -	The Authority may advise changes on this	Terrorism premium on

<p>Remuneration</p>	<p>Remuneration section from time to time by way of Circulars given changing market conditions.</p> <p>19 (A) on direct general insurance business</p> <table border="1" data-bbox="464 342 1145 757"> <thead> <tr> <th data-bbox="464 342 572 566"></th> <th data-bbox="572 342 826 566">Class of Business</th> <th colspan="2" data-bbox="826 342 1145 566">Maximum percentage of premium payable as agency commission brokerage (% of premium excluding se tax)</th> </tr> <tr> <th data-bbox="464 566 572 645">S. No.</th> <th data-bbox="572 566 826 645"></th> <th data-bbox="826 566 995 645">Agency Comm.</th> <th data-bbox="995 566 1145 645">Brokerage</th> </tr> </thead> <tbody> <tr> <td data-bbox="464 645 572 757">1.</td> <td data-bbox="572 645 826 757">Terrorism</td> <td data-bbox="826 645 995 757">10%</td> <td data-bbox="995 645 1145 757">10%</td> </tr> </tbody> </table> <p>Regulation 19 e</p> <p>e) Risk Management and improvement in Administrative efficiency</p> <p>(i) an additional amount upto to a maximum of 2.5 % of the premium for risk management services can be agreed and paid by the insurers to brokers. This will not be applicable for Group Health and Personal lines of insurance business.</p> <p>(ii) An additional 2.5% of the premium for improvement and administrations efficiency may be paid. These charges may be paid if agreed by the insurers but only on reimbursement basis.</p> <p>within overall cap of 30% as per section 42 E of Insurance Act, 1938.</p> <p>(ii) an amount of 5% of the first year new business premium earned can be paid as bonus commission to the brokers in life insurance business within overall cap of 30% as per section 42 E of Insurance Act, 1938.</p> <p>f) The brokers are required to disclose to the Authority in their audited annual financial statements any expenses reimbursed or payments received from insurance companies and the group companies of the insurance companies along with the details.</p> <p>19 (1) (B) (i) (b) 7.5% of 2nd and 3rd year renewal premium and 5% from the 4th year onwards</p> <p>19 (1) (B) (i) (c) 2% where only one premium is payable on the policy or single premium policy</p>		Class of Business	Maximum percentage of premium payable as agency commission brokerage (% of premium excluding se tax)		S. No.		Agency Comm.	Brokerage	1.	Terrorism	10%	10%	<p>which currently no brokerage is paid as there is no separate section should also qualify for 10% brokerage maximum taking into account the two facts: (i) it is business which has to be also procured, it is not mandatory and (ii) the terrorism pool has built-up a corpus of around 2,000 crores. In the industry, terrorism is the most profitable segment in insurance. Pool being profitable, Terrorism pool rates were reduced by 16 to 25% w.e.f 1st April 2013</p> <p>Risk Assessment - Non-life insurance sector has faced unprecedented challenges relating to underwriting discipline and risk management.. Risk Management and proactive improvement by Broker which is the result of their extensive expertise and experience will directly reduce time and expense for underwriting and rating. This activity, with deliverables that are both of an "underwriting" and a "risk improvement" nature can produce direct, and substantial, economic benefits to clients and markets.</p> <p>Administrative efficiency - Enabling technology platforms, creating process flow, Document templates,</p>
	Class of Business	Maximum percentage of premium payable as agency commission brokerage (% of premium excluding se tax)												
S. No.		Agency Comm.	Brokerage											
1.	Terrorism	10%	10%											

			<p>Communication facilitation across devices, Data consistency and integrity and all such similar efforts brings in endurable client comfort, safety & responsiveness. Section 42 E of Insurance Act 1938 has placed a cap of 30% on commission, fee or remuneration to be paid to any intermediary or insurance intermediary. However, the agents are governed by Section 40 A of the Insurance Act 1938 for payment of commission, where they are allowed to receive maximum of 35% (incase the insurer is more than 10 years old) and 40% (incase the insurer is less than 10 years old). To reduce the anomaly, an additional bonus commission may be paid to the brokers in life insurance business.</p> <p>Today, insurers pay 5% commission of each renewal premium to a broker whereas they pay 7.5% of 2nd and 3rd year renewal premium and 5% from the 4th year. There is no justification to remunerate broker lesser than individual agent and corporate agent. This will help alleviate the huge infrastructure and manpower employment cost.</p>
--	--	--	---

9	Regulation 25 Maintenance of Books of account, records etc.	<p>Regulation 25 (1) (iv) Additional statements on insurance and reinsurance broking business as may be provided by the Authority through circular, guidelines from time to time.</p> <p>Regulation 25 (5) The books and documents, statements, contract notes etc., referred to in this regulation and maintained by the insurance broker shall be retained for a period of at least five years from the end of the year to which they relate. However the documents pertaining to the cases where claims are reported and the decision is pending for a decision from courts the documents are required to be maintained till the disposal of the cases by the court. In the case of reinsurance brokers, all other documents to be maintained till its natural expiry As and when advised by the Authority All brokers should be ACORD compliant and the accounting should be online. The brokers may maintain electronic storage of documents</p> <p>Regulation 25 (6) Banks are required to maintain separate books of account and records for their broking operations.</p>	<p>The cost of maintaining the physical documents is increasing due to lack of space. Electronic storage is less space consuming and readily retrievable.</p> <p>The Honorable Finance Minister during his Union Budget 2013-14 presentations has announced that Banks will be allowed to act as Brokers. IRDA has already circulated an exposure draft to the Councils and IBAI for their comments. Currently as per the above regulation, the Authority may require additional statements on insurance broking business. It is proposed that the authority can also require additional statements or information on re-insurance broking.</p>
10	Regulation 27 Internal Controls and Systems	<p><i>The following note may be added at the end</i> <i>Note: It is mandatory for a broker who is placing business of more than Rs. 10 Crores of premium in a financial year to have a designated Compliance Officer / Entity either as full time employee or an expert person or entity on the matter who will be responsible for the internal controls and systems.</i></p>	<p>It is observed during the inspection of brokers that most of the brokers do not have any systems to monitor their operations.</p>
11	Regulation 41	<p>41 (1) In case the license of a broker has been cancelled or an applicant's application has been rejected, the broker or the applicant is allowed to reapply after one year from the date of authority's order/court order whichever is later. The Authority may consider the application afresh on merits. In case of a composite broker where the violation for which license is cancelled is on the reinsurance side, the Authority may consider a direct license for</p>	<p>The Insurance Act, 1938 or IRDA (Insurance Brokers) Regulations, 2002 are silent about dealing with requests made by the insurance brokers in case where the Authority has cancelled or refused the renewal of license of</p>

		<p>the broker, or vice versa. In case of a direct broker having both life and non-life licenses, the Authority may cancel the license for the part of business where the violation has occurred.</p> <p>41 (2) Wherever it is found that the broker who has been licensed to do both life and non-life business is not doing any amount of business in life or non-life (during the entire/ part of the previous licensed period), the Authority may renew the license only for the business which is procuring/ procured.</p>	<p>insurance brokers. Under Section 42E, which was introduced in the year 2002, the Authority has powers to specify the requirements of capital, form of business and other conditions to act as an intermediary and insurance intermediary. Under this section, we may introduce this provision in the regulations.</p>
12	Regulation 2	<p>(k) "principal officer" means —</p> <p>(ii) a director, who is responsible for the activities of the insurance broking in the case of a body corporate;</p> <p>(iii) or the chief executive officer appointed exclusively to carry out the functions of an insurance broker;</p> <p>(iv) no less than General Manager cadre for a Public sector bank or a Assistant Vice President of a Private sector bank with insurance broking operations</p> <p>2 (1) (j) LLP be added to eligible entity list.</p> <p>2 (1) (j) (v) that the banks registered/ licensed by the RBI may be recognized as a person to act as Insurance Broker and be regulated by IRDA</p> <p>2 (1) (j) (vi) any other person recognized by the Authority to act as an insurance broker;</p> <p>2 (1) (k) (v) PO means an office of the Banks not below rank of General Manager, so nominated by its Board of Directors, who is appointed exclusively to carry out the functions of insurance broker.</p> <p>2 (1) (k) (v) a banking company as defined in clause (5) of section 2 of the Companies Act, 1956</p> <p>2 (1) (o) "Telemarketer" means an entity registered with Telecom Regulatory Authority of India under Chapter III of the Telecom Commercial Communications Customer Preference Regulations, 2010 (as amended from time to time) to conduct the business of sending commercial communications on behalf of Insurers, Corporate Agents or</p>	<p>Limited Liability partnerships are also allowed into insurance business</p> <p>Banks will also allowed Broking license on optional basis</p> <p>Broker can engage Tele Marketer</p> <p>"Sub-broking" – The Committee on Sub-broking has already submitted its recommendation and this issue is under consideration of the Authority.</p>

		Brokers.	
13	Regulation 6(2)	Authority may issue Direct Broker licence in the following ways 2) Direct(Life) 3) Direct(Non-Life) 4) Direct(Life & Non-Life)	Authority can issue 3 distinctive types of licences in direct broker licence depending on the request & application received.
13	Regulation 21 Code of conduct — Every insurance broker shall abide by the Code of Conduct as specified in Schedule III.	3 (b) confirm that he does not employ agents or canvassers to bring in business. However, he may source business from licensed Sub broker (as and when allowed by the Authority) and with the help of leads generated and supplied by licensed web-aggregator. He does not directly or indirectly employ any person against whom more than 3 complaints are received and established by IRDA.; 8 (c) register and acknowledge a complaint within seven days from the receipt of correspondence, advise the member of staff who will be dealing with the complaint and the timetable for dealing with it,; 8 (d) ensure that response letters are sent with name and contact details of senior management official and Grievance Redressal Officer, and inform the complainant of what he may do if he is unhappy with the response; 8 (e) ensure that complaints are dealt with at a suitably senior level. The Broker should create a separate department other than sales to handle customer grievance and complaints and submit report to the senior management directly. Same may be scrutinized at the time of onsite inspection of the broker 8 (g) ensure details of delinquent employees (who have committed serious fraud and forgery) are published on website of IBAI 9 (b) In case of life insurance business, the policy document will be dispatched directly by the insurer.	Incorporate sub-broking regulations under consideration as and when allowed by the Authority 8 (c) Need for a defined process for complaint resolution 8 (d) Provide the complainant an opportunity to approach senior management if he/ she is not satisfied with reply of PO/ Comp Officer/ CRM 9 (b) In case of life insurance policies, the protection of policyholders' interest 2002 regulation specifies that the policy document is to be dispatched directly to the customers by the insurer.
14	Regulation 26 Submission of half-yearly results	Regulation 26 Submission of half-yearly results — (1) Every insurance broker shall before 31 st October and 30 th April each year furnish to the Authority a half-yearly un-audited financial statement containing details of performance, financial position, etc., alongwith a declaration confirming the fulfillment of requirements of capital in	Create required transparency in business transaction

		accordance with the provisions of regulation 10 and deposit requirements in accordance with the provisions of regulation 22.	
15	<u>Regulation 28</u> Disclosures to the Authority	Outsourcing The Authority will frame suitable outsourcing guidelines relevant to the practices noticed in the market involving insurance brokers after examining the nature of insurance broking business and best practices.	Bring transparent marketing practices/ conduct in the market
16	<u>Regulation 29</u> Authority's right to inspect	Regulation 29 (1) (a) Authority may inform the concerned broker about the inspection before 21 days from the date of inspection	The inspection process will be more organized.
17	<u>Regulation 33</u> Appointment of investigator	Regulation 33 (1) The Authority may appoint a chartered accountant or an actuary or any qualified and experienced individual in the field of insurance to investigate the books of accounts or the affairs of the insurance broker. The individual will have at least 10 years of working experience with life or non-life insurance company at a minimum Manager level for a period of 3 years minimum	Bring more clarity on identification of a person to be appointed as investigator
18	<u>Regulation 34</u> Cancellation or suspension of licence with notice	Regulation 34 (1) (f) fails to resolve the complaints of the policy holders or fails to give a satisfactory reply to the Authority; Regulation 34 (1) (n) If broker indulges in sourcing of business through unauthorized persons/ entities Regulation 34 (1) (o) furnishes wrong or false information; or conceals or fails to disclose material facts to the Authority during the validity of license;	Restrict customer grievance and mis-selling
19	<u>Regulation 35</u> Cancellation or suspension of licence without notice	Cancellation or suspension of licence without notice — Any employee who is found dishonest or is involved in fraud should not be hired by any other broker. IRDA may maintain the data base of such persons.	As a deterrent measure
20	<u>Regulation 37</u> Manner of holding enquiry before suspension or cancellation	Regulation 37 (8) The enquiry officer shall, after taking into account all relevant facts and submissions made by the insurance broker, submit a report to the Authority within 90 days of the completion of the enquiry proceedings.	To bring more clarity
21	<u>Regulation 40</u>	Regulation 40 (4)	Ensure proper

	Effect of cancellation or suspension of licence	The existing broker or another broker which takes over the obligations of policy service can continue to collect brokerage on renewal premium collected till end of current contracts, provided the broker undertakes to service the policies through its term	attendance of policy holder services required during contract period
--	---	--	--

New Regulation

- As per IRDA circular 026/IRDA/Ins Brokers/Oct 05 dated October 11, 2005, sharing of brokerage between a foreign broker and an IRDA licensed Indian broker for the placement of risks in India and is prohibited
- **The remuneration earned on the direct broking business may be shared upto a maximum of 25% of brokerage with foreign insurance broker who has referred the business / client in India. There has to be documentary evidence of genuine referral. This will not be applicable for following**
 - **Personal lines of business**
 - **Corporates whose headquarters are based in India**
- **This would be in line with international practices that global risk management and insurance requires working through network of brokers to allow seamless service to a Client having presence in Multi Geography.**

- **Reasoning –**

Reinsurance / Composite brokers may be allowed to share not more than 50% of brokerage earned for each transaction with the foreign broking firm on outward reinsurance.

The rationale being that the licensed reinsurance / composite broker **should not act as a pure front and pass on all the earnings to foreign broker. The licensed broker should also carry out various functions of a reinsurance / composite broker and suitably share the earnings for the same.**

Inward reinsurance placed through a broker to insurers /reinsurers offices domiciled in India should be through only IRDA licensed broker. This will avoid dealing with unauthorised brokers directly and bring in level of controls which are essential given the reinsurance / composite broker handle reinsurance premiums and claims.

- **Recommendation**

(1) Any insurer/reinsurer licensed in India, if it utilizes the services of any reinsurance broker for the placement of reinsurance, then the said reinsurance or composite broker must be a broker licensed by the Authority.

(2) A licensed reinsurance or composite broker can utilize the services of a foreign broker only for the placement of reinsurance for insurers or reinsurers outside India.

(3) The reinsurance/composite broker, licensed by the Authority, has to perform actual reinsurance activities and cannot merely function as a front of any foreign broker not licensed by the Authority

(4) An IRDA licensed reinsurance/composite broker will not share more than 50% brokerage with the foreign broker on any outward reinsurance

(5) Inward reinsurance if placed through a broker to insurers /reinsurers offices domiciled in India then it should be through only IRDA licensed broker. The foreign broker may enter into suitable arrangement with licensed broker to send Inward Reinsurance.

Restriction of broking license - Single broking license to one corporate group and dealing with Group companies

- **Reasoning**

A corporate group opening up multiple broking houses would generate competing areas of interest and consumer is bound to get confused.

It is important to restrict to a single broking license to a corporate entity. It is imperative to have a broad based definition of the corporate entity to exclude multiple broking licenses

Broking houses may also be dealing with Group companies or their clients who may or may not be in the line of Insurance, reinsurance and risk advisory services.

- **Recommendation**

The Authority shall issue only one broking license to a single corporate group. For the purposes of these regulations, the group shall be defined as in Guidelines INV/GLN/007/2003-04. (Please refer to Annexure-VII for definition of “Group”).

Promoter company of the insurance broker should give an undertaking that none of the clients within promoter group will be compelled for their insurance requirements. An explicit disclosure of its being a Group company within the same promoter group and the same is explicit in all the communication used should be made.

There must be mandatory disclosures to related party transactions to the promoter group in its audited accounts and balance sheet as per accounting standard 18 of ICAI.

Section III Regulations which are notified elsewhere to be incorporated on a holistic IRDA (Insurance Brokers) Regulations 2013

Note: In addition to the following, all the regulations- guidelines etc., which are not presently in the broking regulations, shall be highlighted in the broking regulations with a view to bring special focus of the broking companies for compliance purposes. The necessary information when available at one place serves the purposes of a single window service and enhances the efficiency. It also reduces the opportunities of misunderstanding and non-compliance. Some examples are: (a) Certain parts of consumer regulation protection rights are applicable to broking companies in performance of their functions and acting within their code of conduct. (b) Advertisement regulations, publicity etc. guidelines also apply to brokers in certain circumstances. (c) Manner of receipt of premium regulations are useful to brokers in performance of their functions relating to assisting the client/insurer in compliance of Section 64 VB of the Insurance Act. (d) Role of the brokers to help their clients in using the services of TPAs (health). (e) Rural and Social obligations, though applicable to insurers, expects the broking companies to attempt procuring and servicing business in this category (f) sharing of database for distribution has a distinct role of the broking companies (g) RBI memorandum related to foreign exchange requirements in the insurance business. (h) Guidelines pertaining to money laundering, (i) Detection of frauds in procurement of business and in payment of claims, if any, to have a role for broking companies (j) Third party motor claims do require assistance of the broking companies to furnish information of genuine accidents arising out of the motor policies issued through them

In this section, new regulations sections are denoted as Regulation XX and existing regulations are with their respective existing nos.

Summary/ Index

- Nomenclature of Broking companies
- Documentation & Procedural requirements for obtaining Broker License
- Digital Signature
- Co-broking
- Claim consultancy

Regulation XX

Nomenclature of Broking companies

Insertion of word 'Insurance Broker/Brokers/ Broking in the Name of Company Applying for a Broker License

All Broking Companies should have the word 'Insurance Broker'/ 'Insurance Brokers'/ 'Insurance Broking' in the name of the Insurance Broking Company to reflect its line of activity and to enable the public to differentiate IRDA licensed insurance brokers from other non-licensed insurance related entities such as consultants, risk managers etc.

Accordingly, all new applicant companies making application for insurance broker license are advised to insert the word Insurance Broker/Brokers/Broking in their company name without which the application will not be considered.

Regulation XX

Documentation & Procedural requirements for obtaining Broker License

Submission of completed Application, Documents/Requirements, Personal presentation detailed in Annexure- I

Regulation XX

Digital Signature

Brief Note on Digital Signature and its usage

A digital signature is an electronic method of signing an electronic document. The Information Technology Act, 2000 provides for use of Digital Signatures on the documents submitted in electronic form in order to ensure the security and authenticity of the documents filed electronically. This is the only secure and authentic way that a document can be submitted electronically.

Digital Signature uses the Public Key Infrastructure (PKI technology, which is a sophisticated, mathematically proven method of encrypting and decrypting information).

Information can be decrypted only when both a private key and a public key match each other.

The certificate contains information about a user's identity (for example, their name, email address, the date the certificate was issued and the name of the Certifying Authority that issued it.).

In the Business Analytics Project (BAP) application process the Digital Signatures can be used to ensure

1. User Authentication – (Ensuring the identity of the signer)
2. Data Integrity – (If the data is tampered, Signature validity is lost)
3. Non-Repudiation (In case of Dispute, Signed Data can be used in court of Law)

Detailed in Annexure-II

Regulation XX

Co-broking

- a. It is open to a client to appoint more than one broker to jointly handle the broking of its insurance requirements depending on the skills that the brokers may bring to the activity and to decide the manner in which the brokerage payable on the business may be shared among them.
- b. Each of the direct insurance co-brokers shall be brokers who are licensed to broker the class of business concerned and each co-broker shall be responsible to ensure that these guidelines are complied with.
- c. The manner in which the brokerage is shared among the co-brokers shall be disclosed to the insurer on request. The insurer will be guided by the instructions of the client with regard to payment of brokerage to each co-broker for his share or to the lead co-broker who will then be responsible to pay the other co-brokers.

- d. Each of the co-brokers on a reinsurance placement shall also be responsible to ensure that these guidelines are complied with by themselves and any foreign brokers used by them.
- e. Where a reinsurance placement is co-brokered with a foreign reinsurance broker, the licensed broker in India shall only use reinsurance co-brokers who agree to comply with the requirements of these guidelines and shall be responsible to secure compliance with these guidelines to the extent applicable, by the foreign reinsurance co-broker. The name and other particulars of the foreign reinsurance co-broker shall be disclosed to the insurer.

Regulation XX

Reinsurance brokerage

- (a) The brokerage charged for a particular case, may be disclosed to the insurer before binding over.
- (b) For the purpose of sub-para (a) above, payments of all nature in respect of the particular account, such as risk inspection fees or risk management fees or administration charges, etc., shall be aggregated.

Regulation XX

Claim consultancy

Relaxation of condition specified in Clause 7(e) of schedule III - Code of Conduct of Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002 to permit limited claim consultancy, subject to the following conditions

- (i) Broking companies may offer claim consultancy for claims not exceeding Rs.1 crore provided such claim does not emanate from a policy which has been placed by any other broker.
- (ii) Before offering consultancy, the broker shall obtain a written mandate from the client to represent the client with the insurer concerned for the

claim for which consultancy has been sought by the policyholder and offered by the broker.

- (iii) The insurance broker may charge fee for such services as may be mutually decided between the broker and the policyholder. However, such fee shall not be expressed as a percentage of the claim.
- (iv) The broker shall, in all his dealings with such clients, be governed by the provisions of Code of Conduct as specified in Schedule 3 of the IRDA (Insurance Brokers) Regulations, 2002.
- (v) Any dispute between two or more brokers arising out of such consultancy arrangements shall, in the first instance, be considered by the Insurance Brokers Association of India (IBAI) and thereafter the IBAI shall forward the substance of such dispute together with its recommendation to the IRDA for final disposal.
- (vi) The Authority will review and decide the norms regarding claims consultancy from time to time

Terms of Reference 2

To review the existing practice and evolve a standardized process to assess the gravity of violation for imposition of appropriate penalties

2.1 Regulator needs to take appropriate supervisory action against licensed insurance intermediaries, where necessary, and has powers to take action against those individuals or entities that are carrying on insurance intermediation. Chairman of the committee and convener brought to the notice of the members that IRDA may consider proposing the scales of financial penalties which they would be consistently applying for the same type of breaches committed by the brokers. Members were satisfied that the level of transparency proposed to be achieved by such measures would definitely enhance the efficiency and reduce the occurrence of breaches in the conduct of insurance broking business. Accordingly an Annexure giving necessary details of the proposed penal action is attached with the report.

The financial penalties levied by the competent authority may create an appellate jurisdiction of being heard by the board of the Authority. This will be seen as a positive step by the judiciary that there is a sufficient functional system established by the Authority in addressing the concerns of reasonable opportunity to the aggrieved person.

2.2 There is a specific provision under regulation 17 read with sub-section 8 & 9 of Section 42 D for which an appropriate mechanism has to be established. It would be appropriate for the broking department to bring information/documents to the notice of the legal department of the IRDA to proceed further for initiating action against such entities after necessary investigations and establishing a case of prosecution through the provisions of the insurance act (Section 109 of the Insurance Act pertaining to cognizance of the offences committed under the Insurance Act). This would instill a deterrent fear in the minds of those persons who are wrongfully against in the Insurance business without obtaining a proper license/registration from the IRDA. Even a well explained and self justified complaint made to the police will activate this procedure and evidence adduced at this stage when this case comes to the level of deciding upon the issues etc.

- 2.3** There is a need to establish a mechanism to adjudicate disputes between insurers and intermediaries or insurance intermediaries, for which a provision exists under Section 14 of the IRDA Act. These disputes are one of the potential risks impeding the process of business. This may be initiated as it will help, to some extent, to resolve the disputes of competition and matters affecting the servicing of insurance policies. Based on the recommendations of the adjudicating officers, Authority can take a final view on the level of penalties or an affirmative action to be taken. The process that may be established on this subject would definitely improve the existing practices and evolve a standardized process in assessing the nature of violation, motives and causes thereof.
- 2.4** Regarding complaints against the brokers by the insured or any other person, a complaint resolution system may be developed by the IBAI. The necessary text to bring this system into the broking regulations may be developed after a view is formed. Redressal of these complaints efficiently will reduce chances of regulatory breaches.
- 2.5** Role of broking association should be clearly specified in the regulations in improving upon the practices of conducting the insurance broking business by its members. The association must be made accountable for redressal of complaints against the brokers and establish a disciplinary committee to attend to such matters. A regular report of the association to IRDA in discharge of this function may be made compulsory. The Association may be advised to take up the educational and self-regulatory role in educating the members against the violations and breaches being committed by its members in conduct of their business. This will help reduce breaches.

Terms of reference 3

To look into the possibility of allowing broker to apply afresh to the authority in case where the authority has cancelled or refused the renewal of license of an insurance broker. Suggest the procedure to be followed by the authority under the circumstances.

3.1 Reasoning: Neither provisions of the Insurance Act (more specifically Section 42 D including its Sub-section 6) or the IRDA Act and the regulations made there under specifically bar an applicant from seeking a fresh insurance broking license after serving/ complying with the penal action taken by the IRDA, **nor** the modification of the license is prohibited. Intention appears to be a corrective action and not a permanent barrier once a legal entity has reformed itself to be within the ambit of regulatory frame work. The provisions do not provide for exit norms and that also needs to be considered to provide an opportunity to apply afresh.

3.2 Procedure to apply afresh in case of cancellation and/or non-renewal of insurance broking license after a period of 1 year with effect from date of such decision from the Authority needs to be acted upon with immediate effect to restore the confidence of the broking companies that if they comply the regulatory system they can remain in the business on a long term basis. This one year shall be treated as a mode of penalty over and above the financial penalty, if any, levied by the Authority in a particular case. This procedure shall also be applicable in cases where the Supreme Court has not permanently barred an entity from re-entering into insurance broking business. In cases where the high court or Supreme Court has decided a particular period, beyond one year, the said period shall be taken into consideration by the Authority in considering the application for grant of the fresh license.

3.3 Application for insurance broking license applied afresh by the company whose license was cancelled (or renewal rejected) either due to surrender or disciplinary action shall be accepted on successful completion of due diligence process involving one or more of the following:

1. Gravity of regulatory violations while reviewing grant of fresh license.
2. Distribution model and existing infrastructure setup of Broker
3. Persistency of business over the years
4. Complaints registered against broker through various insurance companies
5. Due diligence and track record of existing business.

6. Other information received with the application prescribed for the said purpose.
7. any other matter which may be specified from time to time by an order or guidelines issued by the Authority.

3.4 Power to suspend or cancel or reject renewal of the broking licenses may be vested with Member (life/ non-life) thus creating a new process of appeal / re issuance of license which will be vested with Chairman IRDA. Alternatively, Authority can appoint a committee to examine request application and based on the recommendation of the said committee, the decision to cancel a renewal/license would be taken by Chairman and appeal thereon may lie with the Board of the Authority.

3.5 Another possibility as explained below can be harnessed to evolve a standard process to provide an appellate jurisdiction to the insurance brokers:

(a) Section 10 E of The Companies Act, 1956 empowers the Central Government to enable the Company Law Board to exercise its appellate jurisdiction on matters that are brought before it. These matters can be relating to companies under the Companies Act or any other law. This provision can be used by a notification made by the Government of India to dispose off the matters that may be brought before it by the insurance broking companies whose licenses are cancelled/ not renewed by the Authority. The moment the pending Insurance Bill is passed, such matters can be heard by the SAT and it would be easy to de-notify the government rules as stated above.

(b) Finance ministry may be requested to notify rules under Section 114 Sub-section 2(m) of the Insurance Act to hear appeals of the broking companies whose license is cancelled or refused for renewal by the IRDA and decision of the Central Government may be accepted finally. This may continue till the provisions of the SAT are made applicable in the Insurance sector.

3.6 A standard format of application can be established to elicit all relevant information from the rejected/cancelled broking company and the said company may be made to apply accordingly. This form can become a part of the schedule of the broking regulations. The said application shall have provisions of seeking affidavit undertakings and other information which has a reasonable value of evidence under the evidence Act of India so that the reoccurrence of the lapses by the said broking company can be established easily against the company in the courts of law.

Term of Reference 4

Any other matter related to Insurance Broking

4.1 Banks as Brokers

Why Banks should be permitted to act as insurance brokers: This will not only enable the banks to utilize their entire network of branches but also increase the insurance penetration and pose an effective competition in rendering services to the policyholders. Since the banks are regulated separately by the RBI, it shall be a measure to enhance the efficiency in the conduct of procurement of insurance business and also accountability to the policyholder as compared to the agency channel.

Issues to be considered

Banks are majorly promoters of Insurance company and there may be conflict of interest when Bank is also forming a Broking firm wherein it has to sell competitors' products. RBI position on Banks as broking firm also needs to be addressed being the primary regulator to Banks. As far as IRDA is concerned it should permit the broking companies to enter into insurance broking in India as a direct insurance broker and not as re-insurance brokers.

Broking arm to be an independent accountable unit. The bank broking unit shall have minimum 2 persons who have the requisite qualifications, mandatory theoretical and practical training and having passed the examinations there under by the examining body i.e. NIA. The remaining staff of the bank broking unit shall meet with the training requirements specified under clause 12 of the code of conduct in addition to participating in relevant insurance seminars, workshops and continuing education programmes organized by the broking association and other stake holders in the insurance sector. The educational requirements and training received by the staff from institutes such as NIA, IIRM, III, IBAI and other institutes imparting insurance related education on the syllabus/course curriculum of the chartered insurance institute shall be recognized.

The bank shall have board approved policy to address the issues, if any, with regard to conflict of interest between the bank and its clients receiving the banking services vis-a-vis insurance broking services. The said policy shall be filed with the Authority at the time of seeking insurance broking license and the revised policy at the time of renewal. The insurance broking unit of the bank shall mutatis-mutandis implement this policy.

Stringent provisions than that of IRDA memo Ref: 063/IRDA/Memo/07-08 dated March 18, 2008 to be fully applied in the envisaged bank Insurance broking model. This circular shall

be re-casted to be made applicable to the brokers promoted by banks because some of its provisions are relevant from the stand point of insurers and the same may not be relevant with regards to banks.

Other additional enabling provisions for Bank to operate as insurance broking may be as follows:

- (i) **Definition 2(1)(j)** should add in its clause (v) that the banks registered/ licensed by the RBI may be recognized as a person to act as Direct Insurance Broker and be regulated by IRDA for their activities and functions specified in IRDA Insurance Broking **Regulation 3 (Functions of a direct broker)**.
- (ii) The **definition of the Principal Officer provided in the broking regulations 2(1)(k)** should be enhanced to ensure that in case of a bank opting for insurance broking activity, its principal officer should not be less than a General Manager (Number 3rd or 4th in hierarchy from top) as he shall be independently accountable for running the affairs of the broking unit of the bank and treated at par as a CEO for the said function. He shall be responsible for not only compliance of the matters of the code of conduct, but all other provisions of insurance broking regulations as well.
- (iii) The **Regulation 6** may insert a clause that the Form 'A' shall be suitably amended for the banking applicants to furnish the relevant information required to the Authority for grant of license. The amended form shall form part of the regulation as **Schedule 1 Form AA**. This would be required because the Form A was not designed for entities such as banks and the information to be received from the banks for the grant of the license should not be materially diluted and that a level playing field is provided.
- (iv) One Corporate bank shall be entitled only broking license.
- (v) Reference of Form AA to be used for the bank applicants may be referred in the existing regulations 7.
- (vi) The additional requirements, if any, for an applicant being a bank shall be specified in the guidelines issued by IRDA and shall form part of the requirements specified in **Regulation 9 (i.e. 'Consideration of Application')**
- (vii) An explanation may be added to **clause (iv) of Regulation 10(1)** to the effect that since the bank being an applicant for the insurance broking business is

governed by the RBI, it may carry on the business of a direct insurance broker in addition to its banking business and that the bank shall create perfect party wall and watertight compartment arrangements for an arm's length requirement of an acceptable standard to carry on the insurance broking business.

- (viii) Another clause (3) may be inserted in **Regulation 10** pertaining to requirements of capital to the effect that the bank being an applicant may not require to have additional capital requirements (meant for other direct brokers) but maintain an FD, with the lien of IRDA thereon, to the extent of Capital Requirements for the purposes of running the affairs of insurance broking business. The FDI limits applicable to the bank as per the FDI policy of the government of India/ RBI may be treated as compliance of **Regulation 10(2)**. The bank may not be required to receive a separate FDI in its books for the purposes of insurance broking functions.
- (ix) the banks engaged in the insurance broking may be required to furnish an internal audit report on the performance of their insurance broking business annually from a CA or a professional body different than the one that audits the bank's non-broking banking operations. This provision may be additionally incorporated in regulation 27.

4.2 Sub-broking

The Committee on Sub-broking has already submitted its recommendation and this issue is under consideration of the Authority. In case the Authority decides to allow insurance sub-broking the following issues, amongst many others which may come up, need to be considered:

- Sub- broking for all Insurance products and not merely retail personal lines of insurances.
- Small banks like Cooperative Banks and Gramin Banks to be allowed as sub brokers
- Sub broker may procure policy with Rs.1 lakh premium only.
- Broker placing premium of more than Rs. 10 Crores for Two years needs to upgrade his status as Broker.
- Broker should be permitted to appoint Sub-brokers and their appointment should be limited to only rural and semi urban areas etc.

4.3 Exit Policy including Mergers and acquisitions

Merger and acquisitions including exit options of companies are governed by the provisions of the Companies Act, 1956 ("Companies Act") and requires the sanction of the relevant Courts to become effective. Since insurance broking companies are first the companies under the companies act and then seek license from the IRDA, they are required to seek prior approval of the IRDA before they choose and act under the companies act to seek exit, merger or acquisitions between the insurance broking companies or with other companies under the provisions of the companies act.

Steps suggested for due diligence by IRDA may be as follows:

- Notice of intention to be filed with the IRDA prior to the application for making use of the provisions of the companies act pertaining to exit, acquisitions and mergers, if any.
- The documents to be filed under the companies act need to be filed with the IRDA along with the notice of intention.
- A report on the manner in which the interest of the clients will be protected and a report on compliance with applicable laws including the Competition Act, 2002. A separate report truly certified by a chartered accountant or an actuary and the company secretary on compliance of the IRDA insurance broking regulations and other regulations/guidelines/circulars that are applicable to the insurance broking companies.

Other Aspects that may be considered are

- a. whether the arrangements creates barriers to new entrants in the market;
- b. whether the arrangements will drive existing competitors out of the market;
- c. whether the arrangements will foreclosure competition by hindering entry into the market;
- d. whether the arrangements accrue benefits to consumers; grant improvements in rendering services or performance of the duties and functions.
- e. Specific liabilities of the broking company towards the insurers, re-insurers, insurance consumers, broking association and the insurance regulator.
- f. Status of pending disputes, if any.
- g. Any other matter which may be specified by the Authority from time to time.

4.4 It would be necessary and prudent to clearly define the role of IBAI and regulate it under these regulations and also in terms of section 14(2)(f) of the IRDA Act which pertains to promoting and regulating professional organizations connected with insurance, re-insurance business. The role in addition to other functions which may be deemed appropriate by IRDA may include the following:

- (a) Perform the functions of a professional body or an institute to cater to the needs of its members towards continuing professional education including organizing seminars and workshops/training programs to upgrade the skills of its members.
- (b) standardizing the practices of insurance broking,
- (c) publishing a quarterly magazine or a report highlighting the programs for the promotion and development of the Insurance Broking business.
- (d) furnishing annually a report to the Authority giving true-fair and full account of its activities.
- (e) notify and make disclosure on the application of the code of ethics on its members,
- (f) run an exhaustive grievance redressal portal and regularly report the outcome thereof to the industry and the regulator.
- (g) establish an infrastructure for providing theory and practical training duly recognized by IRDA in the licensing procedure,
- (h) establish dedicated committee comprising the re-insurance brokers to look after the needs of this segment. Similarly, establish one such committee each for life and general insurance brokers to take on board the issues and challenges confronted by them.

4.5. It would be appropriate that simultaneously or immediately after the broking regulations are revised, the related issues pending resolutions in the models of : Bancassurance, aggregators, distance marketing- referrals, agents/corporate agents and any other entity engaged in the procurement of Insurance business etc., are addressed and a committee constituted to furnish a comprehensive view to bring compatibility in the Insurance distribution sector. This will bring more clarity, transparency and a choice to the insurance consumers, insurers and the interested entities engaged/ to be engaged in this venture.

Annexure-I:

1.1 Documentation & Procedural requirements for obtaining Fresh Broker License

A. Submission of Completed Application.

2. Submission of relevant information as required in the FORM A format available on the IRDA website [www.irdaindia.gov.in].
3. The declaration forming part of the application format should be signed by two directors.

B. Documents / Requirements.

1. Remittance of requisite fee as per category of insurance broker applied by demand draft payable at Hyderabad , as prescribed under Schedule II of IRDA (Insurance Brokers) Regulations, 2002.
2. Printed copy of Memorandum and Articles of Association issued by Registrar of Companies. The main objects of the Memorandum and Articles of Association should be as per regulation 9(2) (H) of the IRDA's (Insurance Brokers) Regulations, 2002.
3. Steps should be undertaken by the applicant to ensure compliance of the training requirements as specified in regulation 9 (2) (F). Training requirement as specified under section 9 (2) (F) of the IRDA (Insurance Brokers) Regulations, 2002 is a requirement to be complied with before any application could be considered for grant of license.
4. One Principal Officer has to be there in a broking company fulfilling the requirements as per Regulation 9.
5. Information on whether any person associated with the applicant company in his capacity as Directors/shareholder/promoter/key management personnel or employees is holding any insurance agency or insurance surveyor's license. If yes, the complete details thereof. As per the regulations, no agent or surveyor can work as a broker. The applicant should take steps to cancel the agencies and submit documentary proof of the same to the Authority.
6. Detailed CV of all the directors highlighting their past and present activities.

7. Detailed CV's and attested copies of testimonials of the educational qualifications of the principal officer and key management personnel.
8. Principal Officer to submit an affidavit, duly notarized certifying to the effect that that the applicant (directors, principal officer, key management personnel and employees of the company) are not suffering from any of the disqualifications specified under sub-section 42 D of the Insurance Act, 1938.
9. List of all shareholders (current as well as proposed) of the applicant company.
10. Photocopy of the asset register of the firm, duly certified by CA.
11. List of employees who will be responsible for soliciting and procuring insurance business along-with their qualifications.
12. Details of statutory auditors and Principal Bankers along with the Bank Account Number of applicant.
13. If shareholder is firm/firms, confirm whether it/they is/are Non-Banking Finance Companies. If yes, submit a No Objection Certificate from Reserve Bank of India regarding their promoting and investing in Applicant Company. If not, submit a certificate to that effect from the statutory auditors.
14. If shareholder is firm/firms, furnish the Board Resolution passed by it/them in promoting and investing in Applicant Company.
15. If shareholder is firm/firms, submit the audited annual report, balance sheet for the last three years along with certified copies of income tax returns.
16. In case of individual promoters, submit certified copies of income tax returns along with copies of balance sheet filed duly certified by the auditors for the last 3 years along with net worth certificates certified by CA.
17. Balance sheet of the applicant company
18. Explain in detail the existing activities undertaken by the applicant company.
19. Clarification on how the applicant company proposes to deal with its existing customers/ business/liabilities once it enters the field of insurance broking.
20. The company must have the words 'Insurance Broker' or 'Insurance Broking' in its name so as to reflect its line of activity i.e. insurance broking.
21. Details of infrastructure along with supporting evidence thereof like ownership/lease agreement papers with regard to office space/ equipment/ trained man power, etc. for the registered office and the future planning for opening branch offices at various locations in the country and the estimated time frame with photographs of premises.

22. Projections of administrative expenses, salaries and wages and other expenses, draw the revenue account, the profit and loss account and the balance sheet for the projected 3 years.
23. Organization chart giving a complete picture of the company's activities like IT, underwriting, risk assessment, claims settlement, marketing, accounts, back office etc.
24. List of experienced personnel inducted from general and life insurance background with good knowledge and experience of working in the areas of risk assessment, underwriting and claims management etc. Submit detailed CV, copies of educational qualifications along with their appointment/joining letters of the people, so selected, to the Authority.
25. Bring on record any other information which is relevant to the nature of services rendered by the applicant for the growth and promotion of insurance business.
26. Any other requirements as deemed necessary by the authority.

C. Personal Presentation

The applicant after fulfilling the given requirements is required to appear before the Authority for a presentation of business plans in connection with the application.

The above list of documents/requirements is indicative only and not exhaustive. The additional documents will be advised based on the category of license applied, pattern of shareholding, any other compliance matter required as per IRDA (Insurance Brokers) Regulations, 2002 and views of the Authority.

Annexure 1.2

DOCUMENTS TO BE ATTACHED WITH RENEWAL APPLICATION BY INSURANCE BROKERS

1. Form-A (Application form) duly filled in.
2. Renewal checklist duly signed by a Director and the Principal Officer of the Company.
3. DD towards renewal fee.
4. Copy of MOA/AOA of the company.
5. Affidavit duly notarized in compliance of Sec.42D of the Insurance Act, 1938.
6. Undertakings executed by the Principal Officer.
7. Renewal training certificate for 25 Hrs. undergone by the Principal Officer.
8. Shareholding pattern of the company duly certified by the CA.
9. Organization Structure & Chart.
10. Copy of lease agreement for the Corporate Office & branch office if not submitted earlier
11. List of employees who solicit and procure business on behalf of the company.
12. Business Plan and Projections including Revenue and Expenditure for next three years.
13. Business premium figures and list of top 10 clients for last three years.
14. Copy of Fixed Deposit receipt along with letter from Bank confirming lien.
15. Copies of Professional Indemnity insurance policies for last three years.
16. Copies of previous three years annual reports along with cash flow statements.
17. Certificate from CA certifying compliance of Regulation 23 in respect of Reinsurance/Composite Insurance Brokers.
18. Any other document specific to the applicant.

* * * * *

Annexure 1.3:

Documentation & Procedural Requirement for Afresh license by applicants whose license was cancelled or renewal rejected.

Application for insurance broking license applied afresh by the company whose license was cancelled(or renewal rejected) either due to surrender or disciplinary action shall be accepted on successful completion of due diligence process involving one or more of the following

The applicant has to apply as a fresh application along with the documents needed for a fresh application. In addition the following documents are to be submitted.

1. Information about the regulatory violations established
2. Info about the corrective action taken.
3. Proposed new distribution model & details of existing infrastructure.
4. Information about the persistency of business over the years
5. Details about Complaints registered against broker through various insurance companies and the corrective action taken
6. Any other matter which may be specified from time to time by an order or guidelines issued by the Authority.

Annexure-II: Digital Signature

Obtaining Digital Signature Certificate

Digital Signatures can be obtained from a Certifying Agency. The user is free to buy signature from any of the Digital Signature Providers recognized by the Ministry of Corporate Affairs. Recognized vendors (Source: Ministry of Corporate Affairs <http://www.mca.gov.in/MCA21/certifying-new.html>)

1. Tata Consultancy Services Ltd. (TCS)
2. National Informatics Centre (NIC)
3. Institute for Development & Research in Banking Technology (IDRBT)
4. MTNL
5. (n)Code Solutions Ltd., (A division of Gujarat Narmada Valley Fertilizers Company Ltd.)
6. Safe Script from Sify Communications (Satyam)
7. E Mudhra (3i Infotech)

Further details about CA and Cost of signatures are published on the MCA website.

Class of Digital Signatures:

Different Types of Digital Signature which are acceptable for usage in BAP

Class 2:

- Here, the identity of a person is verified against a trusted, pre-verified database.
- Primarily used in MCA21 (Ministry of Corporate Affairs e-governance project), ROC, Income Tax e-filing, sign a word or excel file, sign e-mail sent through Outlook

Class 3:

- This is the highest level where the person needs to present himself or herself in front of a Registration Authority (RA) and prove his/ her identity.
- Primarily used for e-tendering or e-procurement or e-bidding

Validity of Digital Signatures:

The DSCs are typically issued with one year validity and two year validity. These are renewable on expiry of the period of initial issue

Technical Pre – requisites: All the end users (Brokers) should ensure that they upload various prescribed forms using the computers/lap tops with the following technical specifications.

Browser Client

4. Internet browser. IE v6.0+, Mozilla fire fox v2.0+, Google chrome, Netscape Navigator, Apple Safari
5. JAVA JRE 1.6

Using Digital Signature

One needs to take the following steps in order to use the DS in the BAP application.

1. Procuring the signature in case you don't have one
2. Import the certificate into Browser store / using the certificate from the USB token directly
3. Registration of the DS in the User Profile
4. Using the signatures in the actual Transaction

Once the signature has been procured the Digital Signature, it should be available for Signing with the user.

There are two options for using the DS:

Option 1

The vendor emails the user the Digital signature files (e.g. **.pfx** file). This file can be stored on the desktop.

Option 2

The Digital signature need not be imported in the browser store and during the actual usage it can be picked from the source. (USB token will be provided by the DS vendor or folder

where user has stored the signature). In this option user will be prompted with Password for DSC for every use.

While on the Application (User registration or the Application form for attaching Digital signature) the user can select DSC from the USB Token / local desktop folder.

Registration of DS with the user Profile

Before the User can use his Digital signature certificate for Authentication on the form, he needs to register his DSC on the User Profile Page. This establishes the relationship between User ID (BAP Login User ID) and the Digital Signature Certificate provided by the user. The process also checks for validity of the signature from the providers. In case of any error the user is shown the message accordingly. When user presses the button '**Register Digital Signature**' then a Web signer Applet window is prompted to the user. If permission is asked by the browser for installing a component, user should accept the same.

Annexure-III: Regulation 18 Payment of fees and the consequences of failure to pay fees

Schedule II

FEES

Registration Fees:

1. (a) Every insurance broker shall at the time of application for licensed shall pay non-refundable application fees as set out below :

Category of Insurance broker	Amount of licence fee payable Rs.
Direct broker	Rs.20,000
Reinsurance broker	Rs.25,000
Composite broker	Rs.40,000

- (b) The licence fee as prescribed above shall be paid within 15 days from the date of receipt of intimation under regulation 11.

2. Every insurance broker shall pay annual licence fees as set out below:

Category of insurance broker	Amount of licence fee payable per annum
Direct broker	A sum calculated at the rate of 0.40% of remuneration earned in the preceding financial year subject to minimum of Rs.15, 000 and maximum of Rs.100,000 on every renewal.
Reinsurance broker	A sum calculated at the rate of 0.40% of remuneration earned in the preceding financial year subject to minimum of Rs.75,000 and maximum of Rs.300,000 on every renewal.
Composite broker	A sum calculated at the rate of 0.40% of remuneration earned in the preceding financial year subject to minimum of Rs.125,000 and maximum of Rs.500,000 on every renewal.

3. The license fee shall be paid before the expiry of 15 days from the finalization of annual audited accounts of the broker or till the 30th of September whichever is earlier
4. Every Broker shall pay a renewal fee of Rs. 1000/- (Rupees one thousand only) along with the application for renewal of license
5. The fees shall be payable by an Account Payee draft in favour of “The Insurance Regulatory and Development Authority” payable at Hyderabad.

Annexure-IV: Co-broking

XX Conduct in relation to Multiple mandates

Where a client invites more than one broker to submit terms for its insurance requirement

(a) A broker shall not block capacity with one or more insurers in anticipation of being invited to quote terms for insurance requirements of a client, where the client has not yet decided as to which brokers should be invited to quote terms.

(b) Once the client has selected the brokers who should be invited to quote terms, all other brokers should withdraw from the market. They should also immediately advise any insurers with whom they have been in touch to propose terms, about their not being invited to quote terms.

(c) Brokers who are invited to quote terms should obtain a written appointment letter to develop terms. Where the client has given oral instructions to quote, the broker should record the fact of its being invited to quote terms, in a letter to the client. (Refer paras 2(f) and 2(h) of Code of Conduct).

(d) Every broker invited to quote terms should fully comply with para 4 of the Code of Conduct. The broker should clearly distinguish between information provided by the client and information provided by the broker based on its own study of the risk.

(e) Where the client has specified the terms of the insurance cover required by it, the broker shall develop terms on the basis specified by the client and not any other basis (which may be patched up without the knowledge of the client) to provide the required cover. However, it is open to the broker to discuss with the client and agree with the client to develop terms on any other basis.

(f) It is open to the broker to ask more than one insurer to quote terms. The broker shall furnish full information on a common basis to all the insurers. This does not prevent the broker from providing supplementary information to an insurer in response to questions raised by that insurer.

(g) Where an insurer is asked to quote terms by more than one broker in respect of the same risk, the insurer shall quote the same terms to all the brokers. However, if a broker seeks quotes from the insurer on a different basis, the insurer shall be free to quote terms on the basis requested by that broker without having to advise those terms to all the other brokers.

- (h) Where an insurer is approached by a broker to quote terms for a particular account, the insurer should not approach the client directly to quote terms and eliminate the broker.
- (i) Where a client has also asked an insurer to quote terms directly to it, the insurer may quote terms directly to the client and if any broker approaches it for terms, the insurer should inform the broker that it is quoting directly to the client.
- (j) Where terms are developed on a “net rate” basis, the broker shall advise the client the full facts, namely, the net rate and the addition made for brokerage.
- (k) Where the insurer needs to develop terms from the reinsurance markets before quoting its terms to the client, the insurer shall be free to use the services of any reinsurance broker of its choice.
- (l) A composite broker shall not go to the reinsurance markets to develop terms in respect of cases referred to in (k) above, without the written prior authorization of the insurer invited to quote terms for the insurance. Paras 2(i) and 2(j) of the Code of Conduct are relevant in this connection. It is important to emphasise that placement of reinsurance is entirely within the purview of the insurer and neither the direct broker nor the client can direct the insurer where to place reinsurance and how much to reinsure. This does not prevent the client or the broker from enquiring about the insurer’s own retention on the risk and the reinsurances that it will place and the security rating of reinsurers to be used, as a part of its examination whether to accept the insurer for its insurance requirements.
- (m) Where reinsurance terms are developed as part of the process of quoting terms for direct insurance, the broker who is instructed to develop terms shall truthfully communicate to the insurer on whose behalf the reinsurance terms are developed, the basis of the quotation, the rates and terms and the list of reinsurers with written lines and the extent of likely support at those terms.
- (n) A composite broker or reinsurance broker shall not put conditions of minimum percentage of reinsurance placement as part of the quotation or allow such terms to be put in by the client or foreign co-broker or reinsurers. This does not prevent a lead reinsurer quoting terms subject to his being offered a minimum stated line on the risk. It shall be open to the insurer to instruct the broker not to offer the risk to a particular reinsurer or to specified reinsurers or specified markets .
- (o) A broker shall not put up terms developed within its own office (desk quotes) but not received from an insurer, as insurance premium terms. If a broker is responding to an enquiry about the likely insurance cost, it should make it clear when indicating the premium cost that it is not a quotation but only a non-binding indication of the likely cost.

XX Conduct in relation to Placement of facultative insurance

(a) A composite insurance broker or reinsurance broker shall not enter the reinsurance markets either to develop terms for reinsurance cover or to place reinsurance on any risk without the specific written authorization of the insurer insuring the risk or insurer/reinsurer who has been asked to quote terms for the risk.

(b) A reinsurance broker or a composite broker shall not block reinsurance capacity in anticipation of securing an order to place reinsurance.

(c) The broker shall provide to the insurer/reinsurer, a true and complete copy of the reinsurance placement slip to be used, before entering the market. The broker shall incorporate any modifications or corrections proposed by the insurer/reinsurer in the placement slip.

(d) The broker shall put up to the insurer/reinsurer, all the terms (including the reinsurance commission and brokerage allowed) obtained by it from various reinsurers and indicate the share the lead reinsurer is willing to write at those terms and the expectation of the broker about placement of the required reinsurance at the terms quoted, with acceptable reinsurance security.

(e) The broker shall furnish to the insurer/reinsurer, a true copy of the placement slip signed by the lead reinsurer quoting terms, indicating thereon, the signed line of the reinsurer.

(f) Once the insurer/reinsurer has accepted the reinsurance terms quoted, the broker shall place the required reinsurance cover and shall keep the insurer/reinsurer informed about the progress of placement from time to time. In selecting the reinsurers to whom the risk is offered, the broker shall be mindful of the need to use only such reinsurers who are rated BBB or higher by a recognized credit rating agency, as required by Regulation 3(7) of IRDA (General insurance – reinsurance) Regulations 2000. Where the reinsurance is over-placed, the signing down shall be done in consultation with the insurer/reinsurer in a manner consistent with good market practice. The ceding insurer shall have the right to tell the broker not to use a specific market or reinsurer or reinsurers

(h) Immediately after completion of placement of reinsurance, the broker shall issue a broker's cover note giving the terms of cover and the names of reinsurers and the shares placed with each of them. The cover note shall contain a listing of all important clauses and

conditions applicable to the reinsurance and where the wordings of clauses are not market standard, the wordings to be used in the reinsurance contract shall be attached to the broker's cover note.

(i) The broker shall follow up the cover note by a formal signed reinsurance policy document or other acceptable evidence of the reinsurance contract signed by the reinsurers concerned, within one month of receipt of reinsurance premium.

(j) The broker shall have a security screening procedure in-house or follow credit ratings given by recognized credit rating agencies and answer without any delay, any questions raised by the insurer about the credit rating of one or more reinsurers. Where the insurer/reinsurer declines to accept a particular reinsurer for whatever reason and asks the broker to replace the security before commencement of risk, the broker shall do so promptly and advise the insurer/reinsurer of the new reinsurer brought on the cover

XX Conduct in relation to Placement of Proportional Treaty or Non-proportional Treaty.

(a) A composite insurance broker or reinsurance broker invited to place a proportional treaty shall prepare the treaty offer slip and supporting information with the cooperation of the insurer and secure the insurer's concurrence to the slip and information before entering the market.

(b) Where a reinsurance treaty is placed at different terms with different reinsurers, the fact that such is the practice shall be made known to all the reinsurers suitably. May not be viable –will affect Cos commercial decisions & may also affect the placement.

(c) Where a reinsurer accepts a share in a treaty subject to any condition, the conditions shall be made known to the ceding insurer and its agreement obtained before binding the placement.

(d) The broker shall advise the progress of placement of the treaty from time to time. Immediately after completion of placement, the broker shall issue a cover note setting out the treaty terms and conditions and list of reinsurers with their shares. Where a treaty is over-placed, the broker shall sign down the shares in consultation with the insurer in a manner consistent with good market practice.

(e) The broker shall secure signature of formal treaty wordings or other formal reinsurance contract documentation within one month of completion of placement.

(f) The broker shall have a security screening procedure in-house or follow credit ratings given by recognized credit rating agencies and answer without any delay, any questions raised by the ceding insurer about the credit rating of one or more reinsurers. Where the insurer declines to accept a particular reinsurer for whatever reason and asks the broker to replace the security before commencement of the reinsurance period, the broker shall do so promptly and advise the insurer of the new reinsurer brought on the cover.

Annexure-V: Reinsurance brokerage-

XX Conduct in relation to being sole broker retained to develop terms from several insurers

(a) The broker shall select the insurers to be invited to quote terms, entirely from the point of view of the client and in the best interests of the client.

(b) The broker shall provide information on a common basis to all insurers invited to quote. However, it may provide further clarifications or additional information in response to queries of an insurer that is invited to quote.

(c) The broker shall not first develop terms from foreign markets and then go round locating insurers willing to front the business at those terms.

(d) The broker shall not go round looking for insurers to be invited to quote terms, on the basis of a minimum reinsurance order as a condition of giving an opportunity to the insurer to write a share of the risk.

(e) The terms put up to the client by the broker should include the original letters of quotation from the insurers and the recommendation of the broker should be properly documented with reasons in support of the recommendation

XX Conduct in relation to Documentation and post-insurance servicing of the direct insurance client

(a) Once the direct insurance client gives orders to bind the cover, the broker should obtain a letter of cover or cover note or insurance policy from the insurer or insurers concerned and submit them to the client before commencement of risk.

(b) The broker should ensure payment of premium in a timely manner in compliance with Sec 64VB of the Insurance Act. The broker should explain to the client, the importance of compliance with policy conditions and warranties by the client during the policy period. Where the insurer issues only a cover note or letter of cover, the broker should follow up for issue of the formal policy document without delay. The broker should scrutinize all these documents to ensure that they are in conformity with the terms and conditions quoted and accepted by the client. Likewise, the broker should ensure timely payment of reinsurance premium on any reinsurance placed through it and follow up for the formal reinsurance document in a timely manner.

Annexure VI- Corporate houses promoting insurance broking companies in addition to doing insurance business



बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY

Ref: 063/IRDA/Memo/07-08

March 18, 2008

MEMORANDUM

To,
CEOs of all General Insurance Companies,

Sub: Corporate Houses promoting insurance broking companies in addition to doing insurance business.

The issue whether an Indian Corporate house which promoted an insurance company (Life, Non-life or both) can also have in its group an insurance broking company has been examined by the Authority in recent time. The amendments to the Insurance Act, 1938 in the year 2002 providing for licensing of Broking Companies coupled with the process of detariffication initiated since January 2007, opens up a number of opportunities for the development of insurance broking in a big way. A question arises as to whether it is harmful to any one's interests to allow the same corporate group to have a presence in both insurance services and insurance broking activity.

2. The information gathered with regard to international practice indicates that in many jurisdictions there is no prohibition with regard to the group owning insurance companies promoting broking companies. The main issue is whether there is possibility of a bias in favour of the insurance companies in the group when a broker places insurance business of his client while the broker is expected to be impartial and protect the client's interests.

3. The desirability or otherwise of permitting the corporate houses to enter insurance broking when they are already in life or non-life insurance business was considered at length by the Authority in its 52nd meeting held on 25th January, 2008. Keeping in view the international experience and practice it was decided that corporate houses can have both insurance companies and broking activity subject to certain safeguards. It was felt that organizations with high standard of corporate governance alone may be permitted to establish/continue insurance broking companies subject to the conditions set out in the circular. These conditions shall be in addition to the conditions already specified in the Act/Regulations.

A) Obligations of the Promoter:

- (i) The promoter company should give an undertaking that none of the clients within the promoter group will be compelled to use the broker for their insurance requirements;

परिचय भवन, तीसरा मंज, बसहेरी बाग, हैदराबाद - 500 004, भारत
☎ : 91-040-2338 1100, फैक्स : 91-040-6682 3334
ई-मेल : irda@irda.gov.in वेब : www.irdaIndia.org

Pancham Bhavan, 3rd Floor, Basheer Bagh, Hyderabad - 500 004, INDIA
Ph. : 91-040-2338 1100, Fax : 91-040-6682 3334
E-mail : irda@irda.gov.in Web : www.irdaIndia.org

B) Obligations of the Insurer:

- (ii) The insurer within the group should give an undertaking that –
 - (a) it will not pay higher remuneration to the broker within the group compared to what is payable to other brokers for the same class of insurance or insurance product; an audit certificate on compliance with this undertaking should be filed annually with the audited accounts of the insurer;
 - (b) it will not quote terms to the broker within the group, that are more favourable than the terms quoted to other brokers on the same proposal for insurance; and
 - (c) it will not design special insurance products for sale exclusively through the broker.

C) Obligations of the Broker:

- (iii) The broker shall make an explicit disclosure of its being a sister company of the insurer within the same promoter group, in all its stationary used for communication with clients and in all publicity materials and at the offices of the broker.
- (iv) The broker shall make an explicit declaration in all communications relating to terms and conditions of insurance if a client requires disclosure of the remuneration receivable by the broker on the insurance effected for the client.
- (v) Where the broker recommends a product and quotes rates and terms offered by an insurer within the same promoter group, the broker shall inform the client about the logic in support of its recommendation and also inform the client about the next best product, rates and terms offered by an insurer not part of the promoter group.
- (vi) The broker shall ensure that not more than 25% of the insurances handled by it in any financial year is placed with the insurance company within the promoter group separately for life and for general insurance business. The broker shall establish internal machinery to monitor this on an ongoing basis.
- (vii) It shall be mandatory for the broking company to disclose Related Party transactions with the insurance company belonging to the promoter group in its audited accounts and balance sheet as described in the Accounting Standard 18 of ICAI.

D) Obligations of both the Insurer and the Broker

- (viii) The insurance company and the broking company shall maintain arms length distance between themselves. More explicitly, no employee or director of the broking company shall be a director, employee, or agent of the insurance company.
- (ix) The broking company shall not offer loans or other facilities or incentives to officers or employees of the insurer within the group and vice versa.

[For this purpose, "Group" shall be as defined in the IRDA Investment Regulations 2000 and Guidelines issued thereunder.]

4. The above prudential requirements are in addition to the requirements stipulated under Regulation 20 of the IRDA (Brokers Regulations) which reads as under:

"The business of the insurance broker shall be carried in such a manner that, not more than 50 percent of the premium (quantum, receipts, etc. as the case may be) in the first year of business, 40 percent of the premium in the second year of business, and 30 percent of the premium from the third year of business onwards shall emanate from any one client.

Note. - For the purposes of this regulation, the term "client" shall include, in the case of a firm or a company, an associate or a subsidiary or a group concern under the same management.

5. The decision of the Authority as to whether a company, a business or an organization is under the same management shall be final."

Annexure-VII: Definition of Group from guideline INV/GLN/007/2003-04

The IRDA (Investment) Regulations, 2000 as amended from time to time, under Regulation 2 (ca) defines

“Group” as under:

(i) Two or more individuals, associations of individuals, firms, trusts, trustees or bodies corporate (excluding Financial Institutions) or any combination thereof, which exercises, or is established to be in a position to exercise, control, directly or indirectly, over any body corporate, firm or trust; or

(ii) Associated persons as explained in the Guidelines issued in this regard as modified from time to time;

Explanation: - The term “Group” shall include the following:

I a Group of persons who are able, directly or indirectly, to control the policy of a body corporate, without having a controlling interest in that body corporate, shall be deemed to be in a position to exercise control over it;

II Associated persons shall include:

(a) in relation to a director of a body corporate means –

(i) a relative of such director, and includes a firm in which such director or his relative is a partner;

(ii) any trust of which any such director or his relative is a trustee;

(iii) any company of which such director, whether independently or together with his relatives, constitutes 1/4th of its Board of directors;

(iv) any other body corporate, at any general meeting of which not less than 1/4th of the total number of directors of such other body corporate are appointed or controlled by the director of the first mentioned body corporate or his relative, whether acting singly or jointly;

(b) in relation to the partner of a firm, means a relative of such partner and includes any other partner of such firm; and

(c) in relation to the trustee of a trust, means any other trustee of such trust;

III Where any person is an associated person in relation to another, the later shall also be deemed to an associated person in relation to the former;

III An inter-connected undertaking means two or more undertakings which are inter-connected with each other in any of the following manner, namely:-

- (i) if one owns or controls the other,*
- (ii) where the undertakings are owned by firms, if such firms have one or more common partners,*
- (iii) where the undertakings are owned by bodies corporate -*
 - (a) if one body corporate manages the other body corporate, or*
 - (b) if one body corporate is a subsidiary of the other body corporate, or*
 - (c) if the bodies corporate are under the same management, or*
 - (d) if one body corporate exercises control over the other body corporate in any other manner;*
- (iv) where one undertaking is owned by a body corporate and the other is owned by a firm, if one or more partners of the firm –*
 - (a) hold, directly or indirectly, not less than 50% of the shares, whether preference or equity, of the body corporate, or*
 - (b) exercise, control, directly or indirectly, whether as director or otherwise, over the body corporate,*
- (v) if one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partner, is such bodies corporate are under the same management*
- (vi) if the undertakings are owned or controlled by the same person or by the same group*
- (vii) if one is connected with the other, either directly or through any number of undertakings which are inter connected undertakings within the meaning of one or more of the foregoing sub-clauses.*

Explanation: - Two bodies corporate shall be deemed to be under the same management

- (i) if one such body corporate exercises control over the other or both are under the control of the same group or any of the constituents of the same group; or*
- (ii) if the Managing Director or manager of one such body corporate is the MD or manager of the other; or*
- (iii) if one such body corporate holds not less than 1/4th of the equity shares in the other or controls the composition of not less than 1/4th of the total membership of the Board of directors of the other; or*
- (iv) if one or more directors of one such body corporate constitute, or at any time within a period of 6 months immediately preceding the day when the question arises as to whether such bodies corporate are under the same management, constituted whether*

independently or together with relatives of such directors or the employees of the first mentioned body corporate or 1/4th of the directors of the other; or

(v) if the same individual or individuals belonging to a group, while holding whether by themselves or together with their relatives not less than 1/4th of the equity shares in one such body corporate also hold whether by themselves or together with their relatives not less than 1/4th of the equity shares in the other; or

(vi) if the same body corporate or bodies corporate belonging to a group, holding, whether independently or along with its or their subsidiary or subsidiaries, not less than 1/4th of the equity shares in one body corporate, also hold not less than 1/4th of the equity shares in the other; or

(vii) if not less than 1/4th of the total voting power in relation to each of the two bodies corporate is exercised or controlled by the same individual whether independently or together with his relatives or the same body corporate whether independently or together with its subsidiaries; or

(viii) if not less than 1/4th of the total voting power in relation to each of the two bodies corporate is exercised or controlled by the same individual belonging to a group or by the same bodies corporate belonging to a group, or jointly by such individual or individuals and one or more of such bodies corporate; or

(x) if the directors of the one such body corporate are accustomed to act in accordance with the directions or instruction of one or more of the directors of the other, or if the directors of both the bodies corporate are accustomed to act in accordance with the directions or instructions of an individual, whether belonging to a group or not.

Annexure-VIII: Code of Conduct for Reinsurance Broker (Client(s) means Insurer or reinsurer)

1. Every Re-insurance broker shall follow recognized standards of professional conduct and discharge his functions in the interest of the policyholders
2. Conduct in matters relating to clients relationship— Every Reinsurance broker shall:
 - (a) conduct its dealings with clients with utmost good faith and integrity at all times;
 - (b) act with care and diligence;
 - (c) ensure that the client understands his relationship with the broker and on whose behalf the broker is acting;
 - (d) treat all information supplied by the prospective clients as completely confidential to themselves and to the reinsurer(s) to whom the business is being offered;
 - (e) take appropriate steps to maintain the security of confidential documents in their possession;
 - (f) hold specific authority of client to develop terms;
 - (g) understand the type of client it is dealing with and the extent of the client's awareness of risk and insurance; - to be deleted as it is not relevant in the context of Insurer/Reinsurer relationship
 - (h) obtain written mandate from client to represent them to the reinsurer; and confirm cover to the insurer/reinsurer after effecting re-insurance, and submit relevant reinsurance acceptance and placement slips;
 - (j) avoid conflict of interest.
3. Handling of reinsurance monies:
 - a) Every broker shall abide by the provisions of Regulation 23 of the IRDA (Insurance Brokers) Regulations 2002.
 - b) Broker shall act as the trustee of the insurance money that he is required to handle in order to discharge his function as a reinsurance broker and for the purposes of this regulation it shall be deemed that a payment

made to the reinsurance broker shall be considered as payment made to the reinsurer;

c) Broker shall ensure that 'insurance money' is held in an 'Insurance Bank Account' with one or more of the Scheduled Banks or with such other institutions as may be approved by the Authority;

d) Broker shall give written notice to, and receive written confirmation from, a bank, or other institution that he is not entitled to combine the account with any other account, or to exercise any right of set-off, charge or lien against money in that account;

4. Placement of facultative reinsurance :(To be deleted as it is already included under Schedule III page 73)

5.

a) A composite insurance broker or reinsurance broker shall not enter the reinsurance markets either to develop terms for reinsurance cover or to place reinsurance on any risk without the specific written authorization of the insurer insuring the risk or insurer who has been asked to quote terms for the risk.

b) A reinsurance broker or a composite broker shall not block reinsurance capacity in anticipation of securing an order to place reinsurance.

c) The broker shall provide to the insurer, a true and complete copy of the reinsurance placement slip to be used, before entering the market. The broker shall incorporate any modifications or corrections proposed by the insurer in the placement slip.

d) The broker shall put up to the insurer, all the terms (including the reinsurance commission and brokerage allowed) obtained by it from various reinsurers and indicate the share the lead reinsurer is willing to write at those terms and the expectation of the broker about placement of the required reinsurance at the terms quoted, with acceptable reinsurance security.

e) The broker shall furnish to the insurer, a true copy of the placement slip signed by the lead reinsurer quoting terms, indicating thereon, the signed line of the reinsurer.

f) Where reinsurance on a risk is proposed to be placed with different reinsurers at different terms, the fact that terms for all reinsurers are not uniform, shall be disclosed to reinsurers suitably.

g) Once the insurer has accepted the reinsurance terms quoted, the broker shall place the required reinsurance cover and shall keep the insurer informed about the progress of placement from time to time. In selecting the reinsurers to whom the risk is offered, the broker shall be mindful of the need to use only such reinsurers who are rated BBB or higher by a recognized credit rating agency, as required by Regulation 3(7) of IRDA (General insurance – reinsurance) Regulations 2000. Where the reinsurance is over-placed, the signing down shall be done in consultation with the insurer in a manner consistent with good market practice. The ceding insurer shall have the right to tell the broker not to use a specific market or reinsurer or reinsurers.

h) Immediately after completion of placement of reinsurance, the broker shall issue a broker's cover note giving the terms of cover and the names of reinsurers and the shares placed with each of them. The cover note shall contain a listing of all important clauses and conditions applicable to the reinsurance and where the wordings of clauses are not market standard, the wordings to be used in the reinsurance contract shall be attached to the broker's cover note.

i) The broker shall follow up the cover note by a formal signed reinsurance policy document or other acceptable evidence of the reinsurance contract signed by the reinsurers concerned, within one month of receipt of reinsurance premium.

j) The broker shall have a security screening procedure in-house or follow credit ratings given by recognized credit rating agencies and answer without any delay, any questions raised by the insurer about the credit rating of one or more reinsurers. Where the insurer declines to accept a particular reinsurer for whatever reason and asks the broker to replace the security before commencement of risk, the broker shall do so promptly and advise the insurer of the new reinsurer brought on the cover. Repetition to be deleted(Already included under SCHEDULE III –suitably modified to include placement by reinsurers)

6. Placement of Proportional Treaty or Non-proportional Treaty (To be deleted as it is already included under Schedule III page 74)

- a) A composite insurance broker or reinsurance broker invited to place a proportional treaty shall prepare the treaty offer slip and supporting information with the cooperation of the insurer and secure the insurer's concurrence to the slip and information before entering the market.
- b) Where a reinsurance treaty is placed at different terms with different reinsurers, the fact that such is the practice shall be made known to all the reinsurers suitably.
- c) Where a reinsurer accepts a share in a treaty subject to any condition, the conditions shall be made known to the ceding insurer and its agreement obtained before binding the placement.
- d) The broker shall advise the progress of placement of the treaty from time to time. Immediately after completion of placement, the broker shall issue a cover note setting out the treaty terms and conditions and list of reinsurers with their shares. Where a treaty is over-placed, the broker shall sign down the shares in consultation with the insurer in a manner consistent with good market practice.
- e) The broker shall secure signature of formal treaty wordings or other formal reinsurance contract documentation within three months of completion of placement.
- f) The broker shall have a security screening procedure in-house or follow credit ratings given by recognized credit rating agencies and answer without any delay, any questions raised by the ceding insurer about the credit rating of one or more reinsurers. Where the insurer declines to accept a particular reinsurer for whatever reason and asks the broker to replace the security before commencement of the reinsurance period, the broker shall do so promptly and advise the insurer of the new reinsurer brought on the cover.

7. Placement of Inwards Reinsurance

- a) The Reinsurance broker shall ensure that Indian Reinsurer(s) receive the reinsurance premium from the overseas insurer as per the premium payment condition stipulated in the reinsurance contract

- b) The Reinsurance broker shall not enter the Indian reinsurance markets either to develop terms for reinsurance cover or to place reinsurance on any risk without the specific written authorization of the overseas insurer insuring the risk or insurer who has been asked to quote terms for the risk.
- c) The Reinsurance broker provide to the Reinsurer in India, a true and complete copy of the placement slip to be used, before committing any terms to the overseas client. The broker shall incorporate any modifications or corrections proposed by the Reinsurer in the placement slip.
- d) The broker shall put up to the overseas insurer, all the terms (including the reinsurance commission and brokerage allowed) obtained by it from various Indian reinsurers and indicate the share the reinsurer(s) is willing to write at those terms and the expectation of the broker about placement of the required reinsurance at the terms quoted, with acceptable reinsurance security.
- e) The broker shall furnish to the overseas insurer, a true copy of the placement slip signed by the Indian reinsurer quoting terms, indicating thereon, the signed line of the reinsurer.
- f) Where reinsurance on a risk is proposed to be placed with different reinsurers at different terms, the fact that terms for all reinsurers are not uniform, shall be disclosed to reinsurers suitably. May not be viable –will affect Cos commercial decisions & may also affect the placement
- g) The broker shall provide complete information as desired by the Indian reinsurer(s) to process the claim arising out of any Inwards business.

8. Co-broking: common to direct & reinsurance

- a) Where a reinsurance placement is co-brokered with a foreign reinsurance broker, the licensed broker in India shall only use reinsurance co-brokers who agree to comply with the requirements of these guidelines and shall be responsible to secure compliance with these guidelines to the extent applicable, by the foreign reinsurance co-broker. The name and other particulars of the foreign reinsurance co-broker shall be disclosed to the insurer.

- b) It is open to a client to appoint more than one broker to jointly handle the broking of its insurance requirements depending on the skills that the brokers may bring to the activity and to decide the manner in which the brokerage payable on the business may be shared among them. However, it is not permitted for one broker to appoint another broker to handle the broking of an account that has been given to that broker to handle by the client.
- c) Each of the direct insurance co-brokers shall be brokers who are licensed to broke the class of business concerned and each co-broker shall be responsible to ensure that these guidelines are complied with.
- d) The manner in which the brokerage is shared among the co-brokers shall be disclosed to the insurer on request. The insurer will be guided by the instructions of the client with regard to payment of brokerage to each co-broker for his share or to the lead co-broker who will then be responsible to pay the other co-brokers.
- e) Each of the co-brokers on a reinsurance placement shall also be responsible to ensure that these guidelines are complied with by themselves and any foreign brokers used by them.

9. Advisory Services common to direct & reinsurance

10.

- a) The Reinsurance broker should have appropriate capabilities (for e.g. understanding of Global Reinsurance markets, Risk Modelling etc.) in case it provides advisory services to client in addition to brokerage services.
- b) The advisory based services should be fees based contracts and not commission or % based.

11. Reinsurance brokerage:

- a) Where the brokerage charged for a particular case exceeds the maximum level of brokerage defined as per regulation for such transaction, the fact should be disclosed to the insurer before binding cover. For this purpose the normal level of brokerage shall be taken to be 2.5% on proportional treaties and 10% on excess of loss covers. For facultative

placements the brokerage would be in the range of 5 to 10%. However brokerage shall follow International practice.

b) For the purpose of sub-para (a) above, payments of all nature in respect of the particular account, such as risk inspection fees or risk management fees or administration charges, etc., shall be aggregated.

12. Reinsurance business placed with overseas reinsurers

a) Reinsurance broker shall ensure that business is placed with only those overseas Reinsurers which are registered with the Authority;

b) The broker will inform the clients (insurers) of the relevant risks involved in dealing with a foreign reinsurer

c) The Reinsurance broker shall ensure the compliance of any taxation, foreign exchange, Anti Money laundering or any other applicable statutory laws at the time of placing the reinsurance business.

13. Responding to Catastrophes and Disasters

a) Catastrophes and disasters are widespread natural events such as floods, earthquakes, cyclones, severe storms and hail which result in a large number of claims.

15.2 The Reinsurance broker shall respond to catastrophes and disasters in a timely, professional and practical way and in a compassionate manner.

14. Information and Education common to direct & reinsurance

15.

a) The broker will support industry education initiatives aimed at explaining insurance to consumers and the community.

b) The broker will make readily available to client:

- Up-to-date information on insurance;
- Information to assist insured to determine the level of insurance cover they may require; and
- Information about insurance products and services, and this Code.

16. Conduct in relation to furnishing of information more relevant to direct — Every broker shall: —

(a) ensure that the consequences of non-disclosure and inaccuracies are pointed out to the prospective client;

- (b) avoid influencing the prospective client and make it clear that all the answers or statements given are the latter's -own responsibility. Ask the client to carefully check details of information given in the documents and request the client to make true, fair and complete disclosure where it believes that the client has not done so and in case further disclosure is not forthcoming it should consider declining to act further;
- (c) explain to the client the importance of disclosing all subsequent changes that might affect the insurance throughout the duration of the policy; and
- (d) disclose on behalf of its client all material facts within its knowledge and give a fair presentation of the risk.

17. Conduct in relation to explanation of Reinsurance contract — Every Reinsurance broker shall:

- (a) provide the list of Reinsurer(s) participating under the Reinsurance contract and advise any subsequent changes thereafter;
- (b) explain all the essential provisions of the cover afforded by the policy recommended by him so that, as far as possible, the prospective client understands what is being purchased;
- (c) quote terms exactly as provided by Reinsurer;
- (d) draw attention to any warranty imposed under the policy, major or unusual restrictions, exclusions under the policy and explain how the contract may be cancelled;
- (e) provide the insurer/reinsurer with prompt written confirmation that Reinsurance has been effected. If the final policy wording is not included with this confirmation, the same shall be forwarded as soon as possible;
- (f) notify changes to the terms and conditions of any Reinsurance contract and give reasonable notice before any changes take effect;
- (g) advise insured of any Reinsurance proposed on their behalf which will be effected with a Reinsurer outside India, where permitted, and, if appropriate, of the possible risks involved; and

18. Conduct in relation to claim by insured (relevant to direct side)— Every insurance broker shall: —

- (a) explain to its insureds their obligation to notify claims promptly and to disclose all material facts and advise subsequent developments as soon as possible;
- (b) request the insured to make true, fair and complete disclosure where it believes that the client has not done so. If further disclosure is not forthcoming it shall consider declining to act further for the client;
- (c) give prompt advice to the insured of any requirements concerning the claim;
- (d) forward any information received from the insured regarding a claim or an incident that may give rise to a claim without delay, and in any event within three working days;
- (e) advise the insured without delay of the insurer's decision or otherwise of a claim; and give all reasonable assistance to the client in pursuing his claim.

Provided that the insurance broker shall not take up recovery assignment on a policy contract which has not been serviced through him or should not work as a claims consultant for a policy which has not been serviced through him.

19. Conduct in relation to receipt of complaints common to direct & reinsurance — Every insurance broker shall:—

- (a) ensure that letters of instruction, policies and renewal documents contain details of complaints handling procedures;
- (b) accept complaints either by phone or in writing;
- (c) acknowledge a complaint within fourteen days from the receipt of correspondence, advise the member of staff who will be dealing with the complaint and the timetable for dealing with it;
- (d) ensure that response letters are sent and inform the complainant of what he may do if he is unhappy with the response;
- (e) ensure that complaints are dealt with at a suitably senior level;(Senior level to be defined)
- (f) have in place a system for recording and monitoring complaints.

20. Conduct in relation to documentation common to direct & reinsurance — Every insurance broker shall:—

- (a) ensure that any documents issued comply with all statutory or regulatory requirements from time to time in force;
- (b) send policy documentation/reinsurance slip without avoidable delay,
- (c) make available, with policy documentation, advice that the documentation shall be read carefully and retained by the insured/insurer or reinsurer;
- (d) not withhold documentation from its insured/insurer or reinsurer without their consent, unless adequate and justifiable reasons are disclosed in writing and without delay to the client. Where documentation is withheld, the client must still receive full details of the insurance/reinsurance contract;
- (e) acknowledge receipt of all monies received in connection with an insurance policy;
- (f) ensure that their reply is sent promptly or use its best endeavors to obtain a prompt reply to all correspondence;
- (g) ensure that all written terms and conditions are fair in substance and set out, clearly and in plain language, client's rights and responsibilities; and
- (h) subject to the payment of any monies owed to it, make available to any new Reinsurance broker instructed by the insurer/reinsurer all documentation to which the client is entitled and which is necessary for the new Reinsurance broker to act on behalf of the insurer/reinsurer..

21. Conduct in matters relating to advertising common to direct & reinsurance — Every broker shall conform to the relevant provisions of the Insurance Regulatory and Development Authority (Insurance Advertisements and Disclosure) Regulations, 2000, and :—

- (a) ensure that statements made are not misleading or extravagant;
- (b) where appropriate, distinguish between contractual benefits which the Reinsurance policy is bound to provide and non-contractual benefits which may be provided;
- (c) ensure that advertisements shall not be restricted to the policies of one insurer, except where the reasons for such restriction are fully explained with the prior approval of that insurer;
- (d) ensure that advertisements contain nothing which is in breach of the law nor omit anything which the law requires;

- (e) ensure that advertisement does not encourage or condone defiance or breach of the law;
- (f) ensure that advertisements contain nothing which is likely, in the light of generally prevailing standards of decency and propriety, to cause grave or widespread offence or to cause disharmony;
- (g) ensure that advertisements are not so framed as to abuse the trust of clients or exploit their lack of experience or knowledge;
- (h) ensure that all descriptions, claims and comparisons, which relate to matters of objectively ascertainable fact shall be capable of substantiation.

22. Conduct in matters relating receipt of remuneration(more relevant to direct side)— Every broker shall:—

- (a) disclose whether in addition to the remuneration prescribed under these regulations, he proposes to charge the insured, and if so in what manner;
- (b) advise the insured in writing of the insurance premium and any fees or charges separately and the purpose of any related services;
- (c) if requested by a insured, disclose the amount of remuneration or other remuneration it receives as a result of effecting insurance for that client. This will include any payment received as a result of securing on behalf of the client any service additional to the arrangement of the contract of insurance; and
- (d) advise its clients prior to effecting the Reinsurance, of their intention to make any deductions from the amount of claim collected for a client, where this is a recognized practice for the type of insurance concerned.- This point requires to be clarified

23. Conduct in relation to matters relating to training common to direct & reinsurance — Every insurance broker shall:

- (a) that its staff are aware of and adhere to the standards expected of them by this code;
- (b) ensure that staff is competent, suitable and have been given adequate training;
- (c) ensure that there is a system in place to monitor the quality of advice given by its staff;

- (d) ensure that members of staff are aware of legal requirements including the law of agency affecting their activities; and only handle classes of business in which they are competent;
- (e) draw the attention of the client to Section 41 of the Act, which prohibits rebating and sharing of commission.

24. common to direct & reinsurance Every broker shall display in every office where it is carrying on business and to which the public have access a notice to the effect that a copy of the code of conduct is available upon request and that if a member of the public wishes to make a complaint or requires the assistance of the Authority in resolving a dispute, he may write to the Authority.

25. common to direct & reinsurance Every broker shall abide by the provisions of the Insurance Act, 1938 (4 of 1938), Insurance Regulatory And Development Authority Act 1999(41 of 1999), rules and regulations made there under which may be applicable and relevant to the activities carried on by them as insurance brokers.

Annexure- IX Proposed Details of financial penalty for certain violation / breaches

In case a licensed insurance broker violates any of the provisions of IRDA (Insurance Brokers) Regulations, 2002(2013), the Authority may impose appropriate penalty depending on the nature/gravity of violation. The penalty structure is as per the following chart.

Wherever, the violation is identified as minor, there is no need to issue a show cause notice and follow the disciplinary procedures. In case of a major violation Authority will follow the disciplinary procedure as laid in the regulations.

Sl. No	Description of Regulation	Nature of violation	Proposed penalties	Remarks
1	Regulation 2 – Definitions	<p>a) A broker who is doing business in the category for which he is not licensed.</p> <p>b) A broker functions without a Principal Officer for more than 30 days</p>	<p>1) A warning will be issued if the violation is observed for the first time;</p> <p>2) A penalty of Rs.1 lakh for second time violation;</p> <p>3) Cancellation of license, if the violation observed for the third time;</p>	<p>Minor.</p> <p>Minor</p> <p>Major.</p>
2	Regulations 3, 4 & 5 – Functions of Director Broker, Reinsurance Broker and Composite Broker	A broker fails to perform functions as defined in the said regulations.	<p>1) A penalty of Rs.2 lakh will be imposed if the violation is observed for the first time;</p> <p>2) A penalty of Rs.5 lakh for second time violation;</p> <p>3) Cancellation of license, if the violation observed for the third time;</p>	<p>Minor.</p> <p>Minor</p> <p>Major.</p>
3	Regulations 6, 7 & 8	In case of fresh license, if the application received is incomplete and the applicant does not respond within a period of ninety days.	The application will be treated as closed. The procedure as mentioned under regulation 7 will be followed.	Major

4	Regulation 9- Consideration of application	<p>A. If it is noticed that disqualifications as mentioned under Section 42(D)(5) after the issuance of licence.</p> <p>B. If the infrastructure dec the time of grant of the and at the time of renewa license is found deficient.</p> <p>C. it is found that the compa not have minimum two with necessary qualifica sub-clause (f).</p> <p>D. If the declaration of company at the time of of license that any c persons connected w was refused to grant li is found wrong, procedure to suspe needs to be invoked.</p> <p>E. Will be taken up along Regulation 10 and 22.</p> <p>F. The qualifications giv this clause is a contin requirement and whe there is breach notic this, a penal provision to be invoked. The le penalty for the first should be up to Rs. 2 L</p> <p>G. The code of conduct is complied with by principal officer and company as a whole violation would in suspension or cancell A Decision has to be whether the suspensio cancellation has to resorted at first instan</p>	<p>Section 34 needs to be invoked.</p> <p>Warning to be issued for the first time.</p> <p>Rs.2 to 5 lakhs to be imposed based on the gravity of the violation.</p> <p>If found for third time, suspension/cancellation.</p>	<p>Major</p> <p>Minor</p> <p>Minor</p> <p>Major</p> <p>Minor</p> <p>Minor</p> <p>Minor</p>
---	--	---	---	--

		<p>an opportunity should be given to the company to mend its conduct for the first time. A penalty up to Rs.5 lakhs can be considered for first time and second time, it will be liable for compounding along with any other violation, if any observed against the broking entity.</p> <p>H. When the broking company is engaged in business other than its main object.</p>	<p>Warning to be issued for the first time.</p> <p>Rs.2 to 5 lakhs to be imposed based on the gravity of the violation.</p> <p>If found for third time, suspension/cancellation.</p>	<p>Minor</p> <p>Minor</p> <p>Major</p>
5	Regulation 9(3) – Employee responsible for soliciting and procuring business	Any employee responsible for soliciting and procuring business on behalf of an insurance broker does not fulfil the requirements mentioned in Regulations 9(2)(F) (i) & (ii).	<p>Warning to be issued for the first time.</p> <p>Rs.2 to 5 lakhs to be imposed based on the gravity of the violation.</p> <p>If found for third time, suspension/cancellation.</p>	<p>Minor</p> <p>Minor</p> <p>Major</p>
6	Regulation 10	<p>(1) Erosion of paid up capital with negative net worth.</p> <p>(2) NRI shareholding exceeding stipulated</p>	<p>1) A warning and direction to be given if the violation is observed for the first time;</p> <p>2) A penalty of Rs.2 lakhs for second time violation;</p> <p>3) Thereafter suspension/cancellation</p>	<p>Minor</p> <p>Minor</p> <p>Major</p> <p>Major</p>

		limit of 26%.	following the due procedure. Opportunity of hearing be given and if found violated penalty of 5 lakhs be imposed subject to condition that NRI shareholding is brought down to less than 26% within six months.	
7	Regulations 11 & 12 –	(1) Procedure for licensing (2) Validity of license.	Only a procedure for licensing. When the license is suspended, broker shall not carry out any new broking business till the suspension is revoked. When the license is cancelled pursuant to Regulations, the broker shall not carry out any broking business.	Nil Major Major
8	Regulation 13(2)	25 hrs renewal training	Authority may warn and direct to take measures if observed for first time. Penalty of Rs.2 lakhs for the second time and Rs. 3 lakhs for the third time. Thereafter suspension/ cancellation of license following the due procedure.	Minor Minor Major
9	Regulation 18 – Payment of annual fees	(1) Failure to pay application fee at the time of making application. (2) Failure to pay annual fees on time up to six months. (3) Failure to pay annual fees beyond six months.	Application not to be processed till receipt of application fee. Penalty of 10% of annual fee for the first time violation. Penalty of 20% of annual fee for the second time violation and thereafter. Suspension of license after giving reasonable opportunity of hearing.	Minor Minor Major

10	Regulation 19 – Remuneration payable	Failure to adhere to the limit of remuneration prescribed therein.	<p>Both the Insurer and the Broking entity are liable for penal action.</p> <p>Insurer be levied penalty of Rs.5 lakhs and the Broking entity Rs.2 lakhs for the first time violation.</p> <p>Any violation thereafter, the licenses of both the Insurer and the Broker to be suspended after reasonable opportunity of hearing.</p>	<p>Minor</p> <p>Minor</p> <p>Major</p>
11	Regulation 20 – Ceiling on business from single client.	Failure to adhere to the limits prescribed in respect of single client business.	<p>After hearing opportunity,</p> <p>Warning to be given for first time violation.</p> <p>Penalty of Rs.3 lakhs for second time violation.</p> <p>Penalty of Rs.5 lakhs for third time violation.</p> <p>Thereafter, suspension/cancellation of license following the due procedure.</p>	<p>Minor</p> <p>Minor</p> <p>Minor</p> <p>Major</p>
12	Regulation 21 – Code of conduct	Failure to abide by the code of conduct as specified in Schedule III.	<p>Penalty for Rs.2 lakhs if violation is unintentional and Rs.5 lakhs if violation is intentional.</p> <p>If violation is observed for second time and persisting, suspension/cancellation of license following due procedure.</p>	<p>Minor</p> <p>Major</p>
13	Regulation 22 – Deposit requirements	Failure to maintain the fixed deposit as prescribed.	<p>Opportunity of hearing be given and if found violated penalty of 5 lakhs be imposed.</p> <p>If violation is observed for second time and persisting, suspension/cancellation of license following due procedure.</p>	<p>Minor</p> <p>Major</p>

14	Regulation 23 – Segregation of insurance money.	Failure to maintain a separate Insurance Bank Account for reinsurance purpose and violation of provisions therein.	Opportunity of hearing be given and if found violated penalty of 5 lakhs be imposed. If violation is observed for second time and persisting, suspension/ cancellation of license following due procedure after conducting an inquiry.	Major Major
15	Regulation 24 – Professional indemnity insurance	Failure to obtain and maintain professional indemnity insurance policies as per the provisions therein.	Warning to be given for the first time violation. A penalty of 50% of annual fee of the corresponding year for the second time violation, 100% of annual fee for third time violation and thereafter suspension/ cancellation of license.	Minor Minor Major
16	Regulation 25 & 26 – Maintenance of Books of account, records etc. & submission of half yearly results.	Non-submission or late submission of accounts	Warning to be given for the first time violation. Thereafter, a penalty of Rs. 50,000/- shall be charged per offence. Any repetition will not be deemed as second or third violation.	Minor Minor
17	Regulation 27 – Internal control and systems	Not having internal controls and systems	Warning to be given for first time violation. Thereafter, a penalty of Rs. 50,000/- shall be charged per offence. Any repetition will not be deemed as second or third violation.	Minor Minor
18	Regulation 28 – Disclosure to the Authority	Failure to disclose information to the Authority as and when required.	Warning to be given for first time violation. Penalty of Rs.3 to 5 lakhs for second time violation. Thereafter, suspension/ cancellation of license following the due	Minor Minor Major

			procedure.	
19	Regulation 29, 30, 31, 32 and 33 – Authority's right to inspect, Notice before inspection, submission of report to the Authority, Communication of findings, etc. and appointment of investigator.	These are procedural issues.		
20	Regulation 34 & 35 – Cancellation or suspension of license with or without notice.		For first time violation, a penalty of Rs.3 to 5 lakhs may be imposed based on the gravity of the violation. Second time if violated, cancellation.	Minor Major
21	Regulation 36 to 40 – Manner of making order of cancellation/suspension with notice, Manner of holding enquiry before suspension or	These are procedural matters.		

	cancellation, Show cause notice and order, Publication of order of suspension or cancellation, Effect of cancellation or suspension of license, and General.			
--	---	--	--	--