REPORT OF THE REINSURANCE EXPERT COMMITTEE 2017

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INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF THE INDIA

REPORT OF THE REINSURANCE EXPERT COMMITTEE 2017

M. RAMAPRASAD
Former Member (Non-Life), IRDAI.

Chennai
14th November 2017.

The Chairman,
Insurance Regulatory & Development Authority of India,
Hyderabad.

Dear Sir,

Reg: Reinsurance Expert Committee's (REC) Report of Recommendations

This refers to Authority's Order dated 05.05.2017, constituting Reinsurance Expert Committee and also to the Terms of Reference, advised therein.

On behalf of the Members of the Committee, I convey that as envisaged, we met representatives of Stakeholders, viz., Cedants, Reinsurers, Retrocessionaires, Brokers and IFSC, Gujarat, deliberated with them and took into consideration their various submissions.

REC also studied International Regulatory Framework and practices including those relating to Reinsurance Pools, Alternative Risk Transfer and such other mechanisms.

I wish to convey and bring it on record that on certain issues, committee could not arrive at a consensus. In such cases, I have chosen to convey the dominant view of the Committee. In a issue or two, dissent view of concerned member has been conveyed appropriately or quoted in the Report.

On behalf of the Members of REC, I have pleasure in submitting our Report of Recommendations.

We acknowledge with thanks, the support we received from the Authority, Member (NL), its officials and all the stakeholders who responded to our invite for deliberations and submissions.

On behalf of the Members of REC, I thank the Authority for giving us an opportunity to serve the Authority in its efforts to tone up the Reinsurance Regulations in line with the appreciable developments in this jurisdiction.

With warm regards,

M. Ramaprasad
Chairman, REC

ACKNOWLEDGEMENTS

At the outset, Members of the Reinsurance Expert Committee express their gratitude to the Chairman, IRDAI, for giving us an opportunity to serve the Authority and Industry, on an important subject.

The Committee thank the various stakeholders, namely, General Insurance Corporation of India, Branch offices of Foreign Reinsurers, Lloyds, Direct Insurers through General Insurance Council, IFSC, Gujarat and others for their interaction with the Members at their invite as well as submissions. Their valuable inputs formed the basis of our deliberations and review of extant Regulations.

Our thanks are conveyed to General Insurance Council, Life Insurance Council and National Insurance Academy for their offer of their premises and support in conducting various sittings of the Committee.

The Committee thank the employees of the Reinsurance Department as well as other support departments of IRDAI in various respects in the conduct of sittings of REC, recording of deliberations and finally in supporting the preparation and submission of the Report.

REINSURANCE EXPERT COMMITTEE REPORT 2017.

Chapter Organisation

Executive Summary

I. Reinsurance Regulations

(1) <u>Objectives :</u>

The Committee members were unanimous in their view that the fundamental objectives of Reinsurance should remain unchanged while formulating or reviewing the reinsurance regulations for the Indian insurance market.

i) Maximize retention within the country;

ii) Develop adequate capacity;

iii) Secure the best possible reinsurance protection/ coverage required to protect the interest of the policy holder/insurer at a reasonable cost

iv) Simplify the administration of business.

(2) <u>General Insurance :</u>

(i) *Order of Preference for Reinsurance Cessions General Insurance :*

The Committee collected data for renewals as at 1st April 2017 from Insurers and Reinsurers in India, to review the implementation and compliance trends of the Order of Preference stipulations. The overall analysis of the data and observations of the Committee is given in Annexure 2 to this report.

The Committee examined three approaches / views / options, viz.

a. The present Order of Preference for Reinsurance Cessions Stipulations be withdrawn.

b. A review of the amended Regulation could take place based on the reporting made to the Authority after a year. Until such review, the Regulation may continue to be in force.

c. Placements with CBRs can be restricted with adequate safeguards such as Collaterals, Risk Charge, etc., Differing views were also expressed on the nature and extent of the safeguards to be put in place

(ii) *International Concerns on Reinsurance Trade Barriers :*

The Committee noted the following International Concerns on Reinsurance Trade Barriers.

a. Guidance notes on Reinsurance and Other Forms of Risk Transfer within the IAIS Core Principles. (ICP 13).

b. Fair treatment of domestic reinsurers and cross border reinsurers sought by Global Reinsurance Forum (which represents more than 67% of the world's reinsurance capacity).

c. Submission of Global Federation of Insurance Associations (GFIA) (which represents more than 87 percent of Global insurance premiums) to International Association of insurance Supervisors that the restriction of Cross-Border reinsurance would result in the non-observance of several of the IAIS Core objectives and the Insurance Core Principles. In their view, 14of the 26 ICPs could be affected.

d. Indian Reinsurer (GIC Re)'s submission that they are subject to entry barriers and restrictions in other countries (e.g., Germany) as CBRs.

(3) <u>Committee Recommendations on Order of Preference :</u>

While arriving at the recommendations on Order of preference stipulations (contained in detail in the Report) all views expressed by Committee members and Stakeholders (including the views of a differing Member) were examined.

(i) *Obtaining best terms for Reinsurance cessions :*

The Committee recommends Minimum Security rating of A minus from CBRs (established in jurisdictions to be specified by the Authority) for the quotation process towards healthy competition and right pricing in the Indian market. The Committee also recommends that Insurers should be permitted to obtain best terms simultaneously from Indian Reinsurers, FRBs, Lloyds India and CBRs (satisfying the eligibility criteria).

(ii) *Order of Preference for Offer of Participation :*

The Committee recommends that the reinsurers can be classified into two categories for offer of participation in following order of preference:

a. GIC Re and then[simultaneously to other] Indian Reinsurers, Cross-Border Reinsurers (CBRs), if any, whose terms for a minimum line size (say 5% for Treaty and 10% for Facultative risks) established the best terms, Foreign Reinsurance Branches (FRBs) registered under Regulation 4(a) and Lloyd's India and Indian Insurers.

b. Reinsurers in Special Economic Zones (SEZs), Joint Venture Partners of the Indian Insurers, Re-insurers and other CBRs satisfying the eligibility criteria above (including overseas reinsurance entities of FRBs' parent group).

(iii) *Waiver from Order of preference stipulations :*

There is merit in the representation of Life reinsurers seeking waiver from Order of Preference stipulations, given the consultative and long-term risk management relationship between the Life insurer and a Reinsurer.

The Committee felt that Aviation, Life Insurance, Marine Hull, large infrastructure projects Petrochemical and refinery plants, Large power plants, Oil and Energy, Specialised / emerging / volatile risks with high loss potential as well as Retrocessions, rely on international reinsurance market for design of the covers, wordings, conditions, capacity, and support. Insurers/ reinsurers require the freedom and flexibility to seek and obtain best terms and reinsurance support from Reinsurers with high Security ratings.

The Committee recommends that stipulations of Order of preference for Reinsurance cessions can be waived for these classes of business and for such other classes of business as may be permitted by the Authority from time to time.

(4) <u>Cross Border Reinsurers (CBRs) :</u>

The Committee noted that many of the Reinsurance trade barriers and restrictions are already present in Indian Regulations and took notice of other restrictions/trade barriers prevalent in other jurisdictions.

The Committee recommends that the Reinsurance Regulations shall continue to prescribe eligibility Criteria for placement of reinsurance business with CBRs.

The Committee recommends that it would be prudent to prescribe CBR Security rating of A minus or above for competitive quotation process and BBB or above rating for placements. Authority could also consider raising the minimum-Security rating levels for participation to A minus.

(i) ***Limit of Cessions to CBRs :***

With a view to develop Reinsurance Capacity / market within India, the Committee recommends that the Cessions to all CBRs taken together, by any Insurer, shall not exceed a certain percentage as deemed appropriate by the Authority. This limit can be reviewed every year.

(ii) ***Counterparty credit risk charge for CBRs. :***

FRBs had submitted that the Authority's oversight on Reinsurance Cessions made by Indian Cedant to CBR is limited and suggested that Counter Party Credit Risk Charge can be prescribed for Reinsurance cessions to CBRs.

The Committee recommends that the Authority may require the Insurers to have appropriate safeguards including Collaterals in respect of reinsurance placements with CBRs.

The Committee felt that, in case the Regulator wishes to consider introducing Credit Risk Charge on Reinsurance Cessions to CBRs till such time Risk Based Capital norms or its equivalent is introduced by the Authority, the Reinsurers' Counterparty Credit Risk Charge applied by international Rating Agencies such as A.M. Best, S&P, etc. can be taken as the reference point.

(5) **Insurance / Reinsurance Pools :**

The Committee would recommend that domestic Insurance or Reinsurance pool/s can be administered by an Indian Reinsurer or any other Insurer or a FRB or Lloyd's India as per directions of the Authority.

(6) **Exempted Insurers :**

With the power vested under Section 34F of the Insurance Act, 1938, the Committee recommends that the Authority can issue directions to an 'Exempted Insurer' as defined in Section 118 (c) in respect of reinsurance arrangements.

(7) **Life Reinsurance Regulations :**

Keeping in view the dynamics of the Life Reinsurance business to achieve the desired objectives of increased market penetration, and enabling India to become an attractive hub for reinsurance, the Committee was of the unanimous view that for Life Reinsurance, the restrictions on the type of reinsurance arrangements should be dispensed with, and reporting requirements on reinsurance business can be simplified.

For Life insurance, the Committee recommends that the retentions should be set based on the company's risk appetite as per the Board or Executive Committee approved policy & to remove Retention Limits from the Regulations and to permit the use of appropriate Proportional Reinsurance arrangements, including use of Quota Share for optimum risk management

The Committee further recommends that Order of Preference for Obtaining best terms and for Reinsurance Cessions can be waived for Life Reinsurance. However, Life Reinsurance business shall be placed with the reinsurers (incorporated, FRBs and Lloyd's India) registered in India only.

II. Unified Regulations for General and Life Reinsurance :

The Committee recommends Unified Reinsurance Regulations for both Life and Non-Life sectors effective 1st April 2018.applicable to all Indian Insurers/Indian Reinsurers Foreign Reinsurance Branches, Lloyd's India, including SEZ insurers as well as Exempted insurers. A draft of the Unified regulations in included in the report in tabular form.

III. Alternative Risk Transfer (ART) :

(1) Structured Reinsurance solutions (General Insurance)

The Committee recommends that only structured reinsurance proposals satisfying risk transfer tests that may be prescribed by the Authority can be permitted at this juncture. The Committee recommends inclusion of such arrangements within the ambit of the Authority's regulations.

The Authority may not allow / consider Alternative risk transfer instruments involving capital markets. Such proposals would need discussions and co-ordination with other Capital Market Regulators like RBI, SEBI etc.

(2) Financial Reinsurance (Life)

The Committee recommends that the Authority permit Financial Reinsurance as an option available to Life Insurers, subject to the Authority being satisfied of sufficient risk transfer within the proposed arrangement. Further work could be initiated to evaluate any changes required in Financial Statements and Accounting requirements.

IV. Ease of Doing Business :

(1) Recommended Reporting Formats for FRBs etc.

Taking into consideration that Regulations/Circulars/Guidelines of the Authority must clearly distinguish between reinsurers registered in India and branches of foreign reinsurers/Lloyd's and insurers, and the reinsurance business model, volume of transactions and channels of business which are significantly different from the primary insurance companies, the Committee recommends to the Authority on the various financial reports to be submitted and their frequency.

Modifications to the various returns to be submitted by all reinsurers (incorporated, FRBs and Lloyd's India (and its service companies and syndicates), SEZ reinsurers), and the format of these returns and frequency of submission is attached to this report.

Suggested detailed formats are being submitted as a separate compilation booklet along with this Report.

(2) Corporate Governance

a. FRBs and Lloyd's India and SEZ (re)insurers (unless they are incorporated in the SEZ as a subsidiary) are not required to constitute a Board in India and instead, may form an Executive Committee of Management for the Indian operation, with appropriate written delegation of authority from the Board.

b. Key Management Personnel for an FRB, Lloyd's India and SEZ insurer can be limited to the CEO, CUO and CFO.

c. Since Lloyd's India CEO (who liaises with the service company CFOs for compliance with

IRDAI and other applicable Indian regulations) will be resident in India, the Authority may prescribe that the CFO of a service company need not be resident in India.

(3) Investment Management :

(i) *Operational Aspects*

a. The Committee recommends that FRBs / Lloyds India may be permitted to outsource Investment activities till their investible funds reach a threshold limit prescribed by the Authority. Once the fund of the FRB/ Lloyds India exceeds the threshold limit, Authority may prescribe Front office and Back office activities which cannot be outsourced.

b. Prior approval of the Authority must be taken to outsource other investment related functions.

c. As the FRBs are required to retain 50% of the premium income as well as their assigned capital funds within India, the Committee felt that to start with a sum of Rs.2500 crore can be prescribed as threshold limit.

d. Recognizing the nature of Reinsurance business, recommended amendments to some of the provisions of Regulation (6) & (9) of IRDAI Investment Regulation, 2000 are detailed in the Report.

(ii) *Trusteeship*

The Committee recognized that this issue on Investment trusteeship could require an amendment to Section 27 (7) of Insurance Act 1938 and recommends to the Authority to take up this issue with Government authorities.

(4) Financial Reporting Requirements

The Committee's recommendations on submission of various by different entities are as follows:

a. Reports submitted on monthly basis by Non-Life Insurers can be made applicable on quarterly basis to FRBs.

b. Certain Reports filed by Non-Life Insurers can be made Not Applicable for FRBs

c. Investment Reports applicable for Life Insurers to be made not applicable for FRBs

d. Non-financial Website public disclosure reports to be made not applicable to FRBs

e. Non-Financial website public disclosure reports which may not be applicable to FRBs

(5) Waiver of following Regulations to Reinsurers

Reinsurance transactions are business to business transactions in nature and, therefore, reinsurers do not hold details of individual policyholders. These regulations are drafted to protect the interests of retail policyholders and therefore not relevant for reinsurers:

a. The IRDAI (Maintenance of Insurance Records) Regulations, 2015

b. The IRDAI (Insurance Advertisements and Disclosure) Regulations 2000

c. The IRDAI (Protection of Policyholders Interest) Regulations, 2002

V. Solvency & Actuarial framework :

a. The Committee took note of the efforts being made by Authority to move towards a Risk Based Capital regime. Until then certain changes to the Solvency and Actuarial framework is required for Reinsurance.

b. Keeping in view some differences between Life Reinsurance and Insurance business and some similarities in Life and General Reinsurance business models, certain amendments have been proposed to Assets Liabilities, Solvency Margin, Life insurance Business Regulations, 2016.

c. For Life Reinsurers, a simple Actuarial abstract and report covering the Lines of Business written, methodology and assumptions used to derive the Reserves or Solvency with the relevant forms is recommended.

Methodology of Reserves for reinsurance :

Keeping in view the nature of reinsurance business model, the Committee suggests that a simpler reserving methodology based on a portfolio of risks basis can be adopted. The reserving methods suggested are: Unearned Premium Reserve (UPR) and Incurred but not reported (IBNR) reserve. If an Actuary feels any additional reserves are required, such reserves can be held accordingly. In particular, an Actuary can consider any guarantees provided in the Reinsurance Contracts.

VI. Special Economic Zones (SEZs) :

The Committee recommends that as per the provisions under the SEZ Act, 2005, the SEZ Rules notified by the Govt of India and the Guidelines issued by the Authority, the Authority may consider various provisions which can be made applicable to the IFSC Zones. These recommendations are contained in detail in the Report.

India as a Regional Reinsurance Hub

The Committee requests the Authority to take up with the Government for favourable taxation provisions / climate / waivers to attract more Reinsurers to set up their operations in the domestic Indian RI market enabling India to become a prominent Regional RI hub catering to Reinsurance requirements of Insurers from Afro-Asian countries.

Introduction :

Reinsurance constitutes a vital part of the insurance activity, as it serves to optimize the risk portfolio of an insurance company. We live in a world of ever-expanding risks. Just as insurance companies find themselves being asked to cover the expanding risks of their policyholders' reinsurance companies are then asked to reinsure same. The (re)insurance industry continues to evolve and adapt to a changing market on many fronts.

The growing needs for reinsurance in an emerging insurance market outlines the way reinsurance should be regulated. The retention capacity depends on financial strength of insurers and reinsurers present in the Market. Insurance companies in emerging markets seek reinsurance capacity from, both domestic and foreign reinsurers, to complement their retention capacity. Therefore, Regulators and Supervisors in emerging insurance markets have necessarily to balance domestic as well as international reinsurance capacity available to promote the development of their insurance markets.

The Authority has, over the years, notified various Regulations, Guidelines, and Circulars pertaining to Reinsurance business. The enactment of Insurance Laws (Amendment) Act 2015 has ushered in changes in the Reinsurance market in India by facilitating the entry of Foreign Reinsurance Branches (FRBs) and Lloyd's India Branch, Lloyd's Syndicates, and Service Companies. Insurance Offices in IFSC (SEZ) have also been set up. These changes have necessitated a comprehensive review of the IRDA (General Insurance – Reinsurance) Regulations, 2016 ("General Insurance Regulations") in respect of reinsurance of general insurance risks and the IRDAI (Life insurance-reinsurance) Regulations ("Life Insurance Regulations"), 2013 in respect of reinsurance of life insurance risks, IRDAI Lloyds India regulations,2015 and IRDAI registration and operations of Branch Offices of Foreign reinsurers other than Lloyds regulations 2015 and its amendments,

The Committee noted that the Authority has created a separate Reinsurance vertical to address this key segment of the Indian Insurance sector in depth and to regularly monitor Reinsurance Capacity, Cessions, and Security towards reinsurance recoveries in the overall objective of protection of policy holders' interests.

1. **REINSURANCE EXPERT COMMITTEE 2017**

Towards this objective, on May 5, 2017, Authority announced the constitution of a Reinsurance Expert Committee (hereafter referred to "the Committee") entrusting them the task of carrying out a comprehensive review of the existing Regulatory framework and provisions for Reinsurance activities, including reporting requirements and formats.

The Authority prescribed the following terms of reference for the Committee to:

1. Review the current regulatory framework for reinsurance and make suitable recommendations;

2. Study international regulatory framework and practices relating to reinsurance pools, alternative risk transfer (ART), and such other mechanisms, and make appropriate recommendations for India;

3. Study the existing guidelines for special economic zones and make necessary recommendations in the context of various reinsurance activities; and

4. Make specific recommendations and devise formats for reports and returns required to be submitted to IRDAI.

The Committee was requested to interact with all relevant stakeholders including cedants, reinsurers, retrocessionaires, brokers, and customers, among others, and make their recommendations. The committee was asked to submit its report by the extended time of October 15, 2017.

A copy of Authority's Order referred above is available as **Annexure 1** to this report.

2. **COMMITTEE MEETINGS AND DELIBERATIONS**

The Committee held its first meeting in Hyderabad on 16th May 2017, wherein the Chairman of the Authority addressed the Committee, and set out his expectations of the Committee and the need to reform the reinsurance regulatory framework in India, to ensure that it was appropriate for the nature, scale, and complexity of the reinsurance activity. The Committee identified 3 key sub groups: Life Technical sub-group (headed by Mr S P Chakraborty); Non-life Technical sub-group (headed by Mrs Y P Bharath) and Finance & Investment sub-group (headed by Dr Mamta Suri). The Committee also heard representations from GIC Re, IFSC (GIFT city), FRBs, Lloyd's, Life Insurance Council, General Insurance Council, and Reinsurance Brokers association.

The Committee also met on 7th July (Mumbai), 28th July (Hyderabad), 22nd & 23rd August (Pune),18th September (Mumbai) and 16th October 2017 (Hyderabad).

I. Reinsurance Regulations

1. OBJECTIVE OF REINSURANCE REGULATIONS

Throughout these various meetings the Committee members were of the view that the revised framework to be suggested must (i) nurture and develop a competitive domestic reinsurance market, and (ii) provide for and develop India as a strong and competitive Asian Regional Reinsurance hub. The Committee examined forward looking reinsurance regulations in other Countries / markets for encouraging domestic reinsurance market as well as accessing global reinsurance capacity.

The Committee members were unanimous in their view that the following fundamental objectives of Reinsurance should remain unchanged while formulating or reviewing the reinsurance regulations for the Indian insurance market.

a. Maximize retention within the country;

b. Develop adequate capacity;

c. Secure the best possible reinsurance protection/ coverage required to protect the interest of the policy holder/insurer at a reasonable cost

d. Simplify the administration of business.

2. GENERAL INSURANCE

(i) *Order of Preference for Reinsurance Cessions*

The current Order of preference stipulations are reproduced below:

Regulation 28(9) of IRDAI (Registration and Operations of branch Offices of Foreign Reinsurers other than Lloyds) (First Amendment) Regulations 2016

Every Indian Insurer shall obtain best terms for their facultative and treaty surpluses from Indian reinsurer(s) having a minimum credit, rating which is having at least good financial security characteristics from any of the internationally renowned credit rating agencies for the previous three years and also from at least three entities which have been granted certificate of registration under Regulation 4(a) of these regulations.

The Indian insurer shall then offer the best terms for participation in the following Order of Preference:

1. To the Indian re-insurer(s) having a minimum credit rating as given above and thereafter to those granted certificate of registration under regulation 4(a) of these Regulations,

2. To other Indian re-insurer(s) or to those granted certificate of registration as per regulation 4(b) of these regulations,

3. To the branch offices of foreign reinsurers set up in Special Economic Zone only after having offered to all entities in (a) and (b) above.

4. The balance, if any, may thereafter be offered to Indian insurers and overseas reinsurers.

(ii) *Synopsis of position taken by Stakeholders*

The present Provisions on the Order of Preference was repeatedly discussed at length at each of the meetings of the Committee. The position taken by the various stake holders on CBR and Order of Preference stipulations are shown in the table below:

Stakeholder / sub category	Quotations	Best terms	Offer of Participation	signed lines
Indian Insurers				
General Insurers	Simultaneous quotations from all reinsurers including CBRs for Price discovery; Rating and Collaterals on CBRs to be left to Insurers	Right to decide best terms	Would follow the Order of preference for offer for participation; Indian Insurers to be allowed parity with on shore reinsurers for domestic RI acceptances CBRs have given significant RI capacity /support to Indian insurers. Cannot be ignored in the short term Order of	Would decide on signed lines based on various factors- but would keep national interest in view
Life Insurers			preference not to be applied for Life Reinsurance	
On-shore Reinsurers				
GIC Re	CBRs cannot be approached for quotations.		First preference to GIC Re; To exhaust its capacity before offering to FRBs, Lloyds India and CBRs	GIC Re lines to be signed in full.
FRBs	CBRs cannot be equated with FRBs; Regulatory and tax arbitrage of CBRs to be checked by strict Rating requirements and **Collaterals on all CBRs;**		GIC Re and FRBs and Lloyd's India to be treated on par. No first preference to GIC Re; Waiver to Retrocessions from Order of preference stipulations	Local capacity to be exhausted before placing offshore, as per Regulations.

Stakeholder / sub category	Quotations	Best terms	Offer of Participation	signed lines
Lloyd's	Simultaneous quotations from all reinsurers including CBRs for Price discovery – Ideally remove Order of Preference Regulations. No collateral to be imposed – can be left to Cedant, depending on Cedant' s risk appetite of the reinsurer.	Cedant' s right to determiane best terms	Remove Order of Preference Regulations. All onshore reinsurers to be treated on par.	
Cross Border reinsurers	Reinsurance is Cross Border and based on long term relationship; Provide competitive terms	CBRs have given significant RI capacity /support to Indian insurers. Cannot be ignored in the short term		If their terms become lead (best) terms, then guaranteed Signed lines to be given.

Renewals as at 1st April 2017 – Data Collected from Cedants and Reinsurers

At the instance of the Committee specific data for renewals as at 1st April 2017 was collected from Cedants and Reinsurers in India to determine the implementation and compliance trends of the Order of preference stipulations.

The overall analysis of the data and observations of the Committee is given in ANNEXURE 2 to this report.

The Committee noted from the data as submitted by Cedants and Reinsurers the Compliance trends are as follows:

(iii) ***Data Analysis and inference :***

1. Almost all Cedants have sought quotation from GIC Re as well as FRBs in India. Most Cedants have not sought terms for their Treaty Reinsurance from any cross-border reinsurer (CBR) at all; some of them have sought quotations from CBRs also.

2. No Cedant reported difficulty in placements of treaty programme. It is not clear whether there have been treaties which are not placed fully. Some Cedants have reported over-placement of some of their treaties.

3. Data from GIC Re clearly indicates that all Cedants have sought quotations from GIC Re and who in turn has provided terms for all these quote requests. GIC Re has also participated in each of the contracts as quoted and got signed line in each one of them.

4. FRBs have been selective in giving quotations. They have offered their capacity in each of the contracts for which offer of participation was made to them. Their significant selection and interest on non-proportional treaties is to be noted. The offer from Cedants combines both proportional and non-proportional treaties.

5. The Committee inferred that while Cedants adhered to the stipulations, FRBs have chosen to provide or not provide quotations based on their underwriting and commercial considerations. CBRs have provided quotations and offered significant treaty and facultative capacity to the market.

6. Renewal trends as at 1st April 2017 reveal a historical trust and relationship that GIC Re enjoys with Cedants and continuity in relationships of the Cedants with CBRs.

7. CBRs continue to be an important source of capacity to the Indian Insurers and complement GIC Re in the capacity as provided to the Indian Insurers.

8. All the three categories of reinsurers providing terms and support to domestic reinsurance needs i.e. GIC Re, FRBs and CBRs are essential to building a domestic reinsurance market. While the reinsurance regulations can tilt towards favouring domestic reinsurers, discouraging CBRs may impact risk diversification and cross border capacity.

9. In order that domestic reinsurance retention may increase in future, all participating CBRs must be persuaded to establish their presence as FRBs in India.

10. Reviewing the data, a view was expressed whether even without the stipulation, all the constituents of Reinsurance markets i.e. Indian Reinsurers, FRBs, Lloyds India and CBRs offering capacity to Indian reinsurers would have behaved in the same way as is reflected in the data.

The Committee collected data for renewals as at 1st April 2017 from Insurers and Reinsurers in India, to review the implementation and compliance trends of the Order of Preference stipulations. The overall analysis of the data and observations of the Committee is given in Annexure 2 to this report.

The Committee examined three approaches / views / options, viz.

1. The present Order of Preference for Reinsurance Cessions Stipulations be scrapped.

2. A review of the amended Regulation could take place based on the reporting made to the Authority after a year. Until such review, the Regulation may continue to be in force.

3. Placements with CBRs can be restricted with adequate safeguards such as Collaterals, Risk Charge, etc., Differing views were also expressed on the nature and extent of the safeguards to be put in place

(iv) *International Concerns on Reinsurance Trade Barriers*

The Committee considered the guidance notes within the IAIS Core Principles on Reinsurance and Other Forms of Risk Transfer (ICP13). The Committee also noted the views of

1. Global Reinsurance Forum (represents more than 67% of the world's reinsurance capacity) has sought fair treatment of domestic reinsurers and cross border reinsurers.

    a) "Implementing barriers to the transfer of risks through global reinsurance markets", is an increasing worldwide trend which undermines the efficiency of reinsurance markets.

    b) "Such barriers reduce competition leading to reduced customer choice, higher reinsurance costs and less capacity over the long-term horizon"

2. Global Federation of Insurance Associations (GFIA) (which represents approximately 87% of global annual insurance premiums) notes a growing trend amongst regulators to require localization of reinsurance risks.

    1. forcing domestic retention of reinsurance risks, thus undermining the principle of global risk diversification,

    2. leading to hurt of individual policyholders and businesses

    3. fragmenting risks within their regions.

    GFIA has pointed out that the restriction of cross-border reinsurance results in the non-observance of several of the IAIS Core objectives and the Insurance Core Principles. In their view, 14of the 26 ICPs could be affected.

3. GIC Re, who has International presence in many countries, stated that they are facing entry barriers and restrictions in other countries (e.g. Germany.)as CBRs.

(v) *Reinsurance trade barriers and restrictions :*

Many of the Reinsurance trade barriers and restrictions listed below are already in Indian Regulations.

1. Mandatory cessions to local reinsurers

2. Local reinsurers must retain a specified percentage of reinsurance premium ceded to them

3. Cap on retrocession to their subsidiaries or companies belonging to the same conglomerate.

4. Cession limit/s linked to security rating of reinsurers.

5. Mandated offer to local reinsurers before placing with foreign reinsurers.

Some of the other Restrictions / trade barriers prevalent in other jurisdictions

1. First right of refusal to local reinsurers

2. Minimum Treaty, Excess of Loss, and Life Reinsurance cession within the country before cessions to Cross Border Reinsurers

3. Voluntary cessions – without cession limits

4. Treaty leader must be local reinsurer

(vi) *Reforms proposed by FSB South Africa on Reinsurance :*

a) The Committee took note of the Amendments / Reforms on Reinsurance underway in South Africa.

b) FSB, South Africa initiated a Discussion paper in 2015 proposing reforms to address the reinsurance regulatory framework to ensure that reinsurance arrangements within South Africa allow for and support the objective of insurance regulation to promote the maintenance of a fair, safe, and stable insurance market for the benefit and protection of policyholders.

c) The Position Paper published by FSB in Sept 2016 sets out the final reforms to be introduced in respect of the reinsurance prudential regulatory framework in South Africa.

d) The Position Paper 2016, as well as the Discussion Paper 2015, focused primarily on the prudential (safety and soundness) considerations relating to reinsurance. Accordingly, the reforms related directly to the current prudential framework for reinsurance. The reforms are being given effect to in the proposed Insurance Bill, 2016 that will entrench the SAM regime in the regulatory framework, Prudential Standards to be made under the Insurance Bill and other measures available under the Bill.

e) The Committee felt that some of the aspects FSB SA proposals are very relevant for the present review of Order of preference stipulations of the Authority.

f) In respect of the equivalence assessments of the regulatory frameworks of foreign jurisdictions in which reinsurers are based, the FSB will provide an initial list of equivalent jurisdictions (section 2.3);

g) Reinsurance placed with branches of foreign insurers or Lloyd's underwriters by local direct insurers or local professional reinsurers will be treated the same for purposes of solvency assessment to reinsurance placed with a local professional reinsurer or a local direct insurer (sections 2.3 and 2.4).

h) For purposes of the solvency assessment of insurers, the credit quality step used for purposes of counterparty default risk will be as follows (section 5.2): In respect of local subsidiaries of foreign reinsurers and local direct insurers, an upgrade can be applied to the credit quality step to offset any downgrade in the rating arising from the sovereign rating cap;

i) In respect of branches of foreign reinsurers, Lloyd's of London and cross-border supply by reinsurers in equivalent jurisdictions, the international rating may be used;

j) The operational and capital requirements on branches are proposed to be substantially lower than those placed on reinsurers registered as local public companies, with the latter requirement on branches seemingly to be set at capital equitable to the technical provisions.

k) A local insurer or reinsurer will not be allowed to reinsure or retrocede more than 75% of premiums underwritten to any other insurance entity (including locally and internationally).

l) The cap to apply to a local insurer's or reinsurer's total book as opposed to each individual reinsurance or retrocession arrangement.

m) The amount of outwards retrocession that locally incorporated reinsurers and direct insurers may place with foreign insurers on a cross-border basis will be limited – to prevent fronting by foreign insurers

n) Locally incorporated direct insurers will not be permitted to accept inwards retrocession business from other local (re)insurers without formal regulatory approval (temporary & reviewable at discretion of regulator) – to prevent market spirals that may threaten financial stability –

o) Both locally licensed reinsurers and branches will only be allowed to conduct reinsurance business and not any direct insurance business.

3. CROSS BORDER REINSURERS (CBRS)

(i) *Characteristics and role of Cross border reinsurers*

The Committee considered that the most common category of reinsurance is cross border reinsurance which has following business characteristics

1. Reinsurance business is essentially B2B in character.
2. Security rating is key to Reinsurance Business
   a. Rating agencies subject Reinsurers to more stringent and rigorous standards.
   b. As reinsurers tend to cover large and complex and catastrophic risks
   c. Solvency rules based on standard formulas applicable for retail and personal line insurance should not be applicable to Reinsurers.
3. Professionally run, properly supervised and well capitalized reinsurers should be able to operate in open markets to ensure effective geographical diversification of risk.
4. For any jurisdiction to benefit from reinsurance for domestic insurers and policyholders, there should not be any restriction or disincentive to cross border reinsurance.
5. Branches are not separate legal entities. Foreign reinsurers would clearly prefer the Branch route from a global capital efficiency point of view. However, the benefits of non-fragmented global capital need to be passed on to Cedants and to Ultimate policyholders.

6. If domestic insurers are forced to cede more to the local reinsurers, this would lead to concentration of risk in these jurisdictions and would increase the vulnerability of Local insurers and the economy at large especially during catastrophic losses.

7. Imposition of discriminatory requirements is likely to lead to reciprocal barriers being imposed by other jurisdictions. This would impair domestic reinsurer's ability to expand abroad which is a key pre-requisite to building an efficient and effective business model.

8. If a country is witnessing or poised for rapid economic development with massive concentration of risk values, huge risk exposures and increasingly globalized production and distribution chains, then the country would benefit from efficient international risk pooling through unrestricted trade in reinsurance services. Instead of recourse to protectionist measures focus should be on capturing the potential of thriving reinsurance markets for the development of their national industries and economies at large.

(ii) *Counterparty Credit risk for CBRs :*

The Committee recommends that the Reinsurance Regulations shall continue to prescribe eligibility Criteria for placement of reinsurance business with CBRs.

The Committee recommends that it would be prudent to prescribe minimum Security rating of A minus or above for competitive quotation process and BBB or above rating for placements with such CBRs. Authority could also consider raising the minimum-Security rating levels for participation to A minus.

The Committee recommends that the Authority may require the Insurers to have appropriate safeguards including Collaterals in respect of reinsurance placements with CBRs.

In support of the need for prescribing collaterals on CBRs, the FRBs have pointed out that Indian Regulator's oversight on Cessions made by Indian Cedant to CBR is limited. They have also pointed out that till such time Risk Based Solvency or its equivalent is introduced by the Authority, the Reinsurers' Counterparty Credit Risk Charge applied by international Rating Agencies such as A.M. Best, S&P, etc. can be taken as the reference point in case the Regulator wishes to consider introducing Credit Risk Charge on Reinsurance Cessions to CBRs. (Annexure 4)

(iii) *Security rating criteria for CBRs :*

Data from the Authority in respect of Security Rating of CBRs participating in the RI programme / Risks of Indian insurers shows that 14 out of 361 CBRs (3.87%) had a Rating below A- (A Minus) and only 6 out of 361 (1.66%) had a security rating below BBB.

RATING	No of CBRs
AAA	6
AA+	22
AA	46
AA-	55
A+	159
A	42
A-	17
BBB+	5
BBB	2
BBB-	1
BB+	4
NR	2
TOTAL	361

In view of the above, the Committee felt that it would be prudent to prescribe CBR Security rating of A minus or above for competitive quotation process and BBB or above rating for placements. Authority could also consider raising the minimum-Security rating levels for participation to A minus.

4. COMMITTEE DELIBERATIONS :

Following three approaches / views / options emerged during the Committee deliberations on Order of preference stipulations and Cross Border reinsurers.

a. The present Order of Preference for Reinsurance Cessions Stipulations may be withdrawn

b. A review of the amended Regulation could take place based on the reporting made to the Authority after a year. Until such review, the Regulation may continue to be in force.

c. Placements with Cross Border Reinsurers can be restricted with adequate safeguards such as Collaterals, Risk Charge, etc., Differing views were expressed on the nature and extent of the safeguards to be put in place

Taking into consideration all the views expressed by the Committee Members and the Analysis of data submitted by Insurers and reinsurers on the Order of Preference stipulations, the Committee arrived at the following conclusions.

1. The proposed Unified Reinsurance Regulations should distinctly recognize the two-step process involved in Reinsurance placements: (i) Seeking best terms: Insurers submit the details of their risks / portfolio to the reinsurers and seek their terms viz., rates and terms and then (ii) offer the Best terms to all Reinsurers for Participation i.e. offer of Reinsurance capacity for the risk / arrangement.

2. The recommendation within the unified reinsurance regulations is not to apply these regulations to Retrocession of Indian Reinsurers / FRBs / Lloyd's India. Their Board of Management / Executive Committee is free to set a direction for such retrocessions and maximize opportunities to increase their capacity within India and to competitiveness in rates and terms as sought by Indian Insurers.

3. Simultaneous choice of competitive rates and terms

   The proposed reinsurance regulations must preserve the right of Ceding companies:

   i. Ceding Insurers can obtain competitive prices for the policyholders' interest (price discovery): Freedom to seek quotations simultaneously from domestic reinsurers and CBRs to continue unchanged as per present practice.

   ii. Ceding insurer shall determine best terms and thereafter the basis of placement and any other commercial consideration on their Reinsurance treaties / contracts with any Reinsurer

   iii. Order of Preference: Offer for Participation in Reinsurance Cessions:

   The broad view emerging in the Committee's deliberations is to consider the Order of Preference, being an offer for priority participation in cession, as a first preference to all reinsurers regulated by the IRDAI (Indian reinsurers, FRBs and Lloyd's India, Indian Insurers) and thereafter to reinsurers in SEZ and overseas reinsurers (CBRs).

   iv. Ceding insurer shall decide on the signed lines and firm up the reinsurance arrangement.

   v. Managing Risk Concentration – Cession Limits:

   Capping the risk concentration of a Ceding insurer with any one reinsurer would be a limitation to the regulation on order of preference in cessions.

   vi. The proposed regulations would ensure that Indian insurer (cedant) places its' reinsurance amongst at least four reinsurers. It would ensure wider spread of large risks and avoid domestic risk spiral in the market. This regulation would have a bearing upon the regulation for order of preference in cessions.

   vii. Enabling provisions (exception to the Order of preference stipulation) for Life Reinsurance and Specialised classes of business and Emerging risks or a specific product or line of business which merits such deviation thus recognising exclusivity with a Reinsurer.

Extracts from note of dissent from one Member of the Committee.

Quote

1. Reinsurance is a strategic resource and the Authority should ensure that reinsurance is placed with those entities over which the Authority has sufficient oversight and control. Cross Border Reinsurers are not entities which are regulated by the Authority. The Order of Preference Provisions therefore restricts sourcing of quotes for reinsurance to only the regulated entities. Placements with Cross Border Reinsurers is permitted only for residual lines left after placements with regulated entities.

2. The Order of Preference Provisions only follow the provisions of the Insurance Act as amended, particularly Section 2(9) defining insurers, which has been amended in 2015 which had deleted the earlier clause on entities incorporated under law of any country other than India. The amendment thus excludes Cross Border Reinsurers from the definition of insurers.

3. Reinsurance has been defined for the first time under Clause 2(16B) of the Amended Act. (Definitions on these two terms before and after the Amendment Bill 2015 are attached as Annexure)

4. The position that obtains after the amendment of these two clauses thus entails placement of reinsurance only with regulated entities as defined under Clause 2(9) of the Insurance Act.

5. The present Provisions on the Order of Preference was repeatedly discussed at length at each of the meetings of the Committee. During none of the meetings had anything close to a consensus ever emerged.

6. With such divergent views having surfaced, the recommendations as suggested do not reflect the views of the Committee.

7. The Amended Regulation is effective from 16.01.2017. As per the note of Explanation on the Amended Regulation "The Authority will undertake a review of the working of these regulations and in particular operation of Regulation 28(9) – order of preference for cessions by Indian insurers after a period of one year based on the reporting made to it."

It is therefore submitted that a review of the amended Regulation could take place after a year of its operation and after assessing the working based on the reporting made to the Authority. Until such review, the Regulation may continue to be in force.

Unquote

[The note submitted by the member is enclosed as **Annexure 3** to this report.]

5. COMMITTEE RECOMMENDATIONS ON ORDER OF PREFERENCE

Stakeholder / sub category	Rationale for Committee Recommendations
Indian Insurers	
General Insurers	1. Price discovery to Insurers; 2. Collateral requirements if any, should be left to the Cedants; 3. CBR to meet Rating requirement for quotations; 4. Insurers to decide on Best terms and Signed lines; 5. Authority to decide equivalent jurisdictions for CBRs; 6. Indian insurers given preference on Follow RI acceptances 7. Prescribing a Maximum percentage of Cessions to CBRs –with a Road map for scaling down. A saving clause for insurers to complete placement of unplaced shares with CBRs if domestic reinsurers do not participate in the domestic quota.
Life Insurers	Entire Stipulations for quotations and Order of preference can be waived for Life reinsurers
On-shore Reinsurers	
GIC Re	1. Simultaneous quotations from CBRs; 2. First preference to GIC Re in Order of preference for Offer; 3. Limits on Maximum cessions to CBRs (scaled down over next 3-4 years). This recommendation is to ensure that CBRs establish their Indian Branch operations within a time frame.
FRBs	1. Waiver to Retrocessions from Order of preference recommended; 2. Waiver from Cession limit (if ceded to Home office) (Alternate View): All RI business of the Parent Group to be routed through the Branch) 3. Authority to specify equivalent jurisdictions for CBRs. 4. Collateral requirements for all CBRs; Type and extent left to Insurers;
Lloyd's	1. Simultaneous quotations from all reinsurers including CBRs for Price discovery 2. Collateral requirements if any, should be left to the Cedants.

Cross Border Reinsurers	1. DTAA country stipulation; 2. Minimum A Minus rating stipulation for CBRs for quotations; 3. Limits on Maximum cessions to CBRs (scaled down over next 3-4 years); 4. Collateral requirements if any, should be left to the Cedants 5. Authority to specify equivalent jurisdiction for CBRs;

(i) ***Obtaining best terms for Reinsurance cessions :***

The Committee recommends Minimum Security rating of A minus from CBRs (established in jurisdictions to be specified by the Authority) for the quotation process towards healthy competition and right pricing in the Indian market. The Committee also recommends that Insurers should be permitted to obtain best terms simultaneously from Indian Reinsurers, FRBs, Lloyds India and CBRs (satisfying the eligibility criteria).

(ii) ***Order of Preference for Offer of Participation :***

The Committee recommends that the reinsurers can be classified into two categories for offer of participation in following order of preference:

a) GIC Re and then, Indian Reinsurers, Cross-Border Reinsurers (CBRs), if any, whose terms for a minimum line size (say 5% for Treaty and 10% for Facultative risks) established the best terms, Foreign Reinsurance Branches (FRBs) registered under Regulation 4(a) and Lloyd's India and Indian Insurers.

b) Reinsurers in Special Economic Zones (SEZs), Joint Venture Partners of the Indian Insurers,Re-insurers and other CBRs satisfying the eligibility criteria above (including overseas reinsurance entities of FRBs' parent group).

Note : A Member had a differing view that GIC Re may not be given a preferential treatment.

(iii) ***Waiver from Order of preference stipulations :***

The increased demand for reinsurance comes amid expansion of customized coverage with clients continuing to seek access to innovative new products and improved terms and conditions. In many cases this may include consolidation in purchasing within or across lines of business, inclusion of new lines, modification of coverage definitions and evaluation of multi-year contract terms. Reinsurance Capacity gives the industry the opportunity to develop new solutions for new risks and consequently, drive growth, enabling the industry to provide cover for risks that are currently uninsured.

a) There is merit in the representation of Life reinsurers seeking waiver from Order of Preference stipulations, given the consultative and long-term risk management relationship between the Life insurer and a Reinsurer.

b) Aviation,Life Insurance, Marine Hull,large infrastructure projects Petrochemical and refinery plants, Large power plants, Oil and Energy, Specialized / emerging / volatile risks with high loss potential as well as Retrocessions, rely on international reinsurance market for design of the covers, wordings, conditions, capacity, and support. Insurers/ reinsurers require the freedom and flexibility to seek and obtain best terms and reinsurance support from Reinsurers with high Security ratings.

c) There are new and interconnected risks that not only have the capacity for large losses, but the potential to trigger costly secondary impacts such as breakdowns in supply chains, reputational damage and disruption to power supplies and financial institutions' operating platforms.

d) Recent areas of focus included heightened cyber security risk, increased geo-political and economic uncertainty. Cyber risk is one of the most pressing and public topics the industry is grappling with and is being addressed as a strategic priority in corporate boardrooms and in governments around the world. As the global economy becomes increasingly dependent on e-commerce and cloud computing, the susceptibility to cyber risk increases exponentially.

e) Similarly, climate change and its impact on a wide variety of risks requires special study and reinsurance structures of an innovate nature to address such risks.

f) To handle the insurance needs for all these risks, insurers would require significant reinsurance capacity as well as expertise and guidance from Global reinsurers.

The Committee recommends that stipulations of Order of preference for Reinsurance cessions can be waived for these classes of business and for such other classes of business as may be permitted by the Authority from time to time

6. INSURANCE / REINSURANCE POOLS

Traditional reinsurance market is the primary mechanism for the transfer of insurance risks. When the availability of adequate reinsurance protection is limited or Reinsurance capacity available is inadequate or scarce, particularly for high-value severity risks (like Natural catastrophes, nuclear and terrorism risks) Insurance / reinsurance pools at the national and regional levels are formed.

Though comprising only, a fraction of the reinsurance capacity, pooling arrangements have been active since at least the 1950s and are likely to play an important role for risk transfer and risk mitigation in both developed and emerging markets

Authority's existing regulations provide for formation of domestic pools for a class of risk or product based on necessity or Indian market appetite.

Given their track record of administering pools in the past such as Indian Motor Third Party Insurance pool, Motor Third Party Declined Risk Poo, Terrorism Pool, and Nuclear Liability Risk Pool, GIC Re is assigned the role of Pool Administrator for the Indian market.

With Foreign Reinsurance Branches and Lloyds India setting up their operations in India, the Committee would recommend that domestic Insurance or reinsurance pool can be administered by an Indian Reinsurer or any other Insurer or a FRB or Lloyd's India as per directions of the Authority

7. EXEMPTED INSURERS;

In terms of Section 110 (F) of the Insurance Act, 1938, Authority can issue direction to "Exempted insurers" on the applicability of certain provisions of the regulations of the Authority. Sec.110 (F) inter alia, includes 34F dealing with power of the Authority to issue directions on reinsurance treaties, etc., as well as on Sec 101 A on Reinsurance with Indian Reinsurers.

With the power vested under Section 34F of the Insurance Act, 1938, the Committee recommends that the Authority can issue directions to an 'Exempted Insurer' as defined in Section 118 (c) in respect of reinsurance arrangements.

8. SUGGESTED WORDINGS TO REFLECT THE RECOMMENDATIONS:

The Committee recommends that the following wordings in the proposed regulations can be considered by the Authority

(i) Cession limits :

a) Single Reinsurer Risk Concentration is not to exceed a prescribed % from the aggregate of all cessions by an Indian Insurer to any one single reinsurer in one financial year. This cap does not apply to Indian Reinsurer/FRB/ Lloyd's India.

b) Indian Insurers are not permitted to accept domestic reinsurance treaties from other Indian insurers and retrocession of facultative risks to avoid market spirals from domestic risks.

c) The application of cession limits can be waived for FRBs, Lloyd's India and SEZ reinsurers, provided the retrocession premium being paid only to the parent entity and not to any other entity.

(ii) Order of Preference : Seeking best terms

(a) Every Indian Insurer shall obtain best terms for their reinsurance protection requirements from –

Indian Reinsurer(s) (with a Financial Strength and credit rating of not less than A- from S&P or equivalent) and

At least three from FRBs and Lloyd's India and from any CBR established in jurisdictions to be specified by the Authority from time to time with financial strength and credit rating of S&P A- or equivalent from any other international financial and credit rating agencies.

Indian Insurers and their offices in the SEZ are not permitted to offer competitive terms for domestic Reinsurance risks / treaties / contracts.

(b) This regulation would apply to Exempted Insurers as defined under Sec. 118 (c) of Insurance Act 1938. '

(c) This regulation shall not apply to classes of Aviation, Life Insurance, Marine Hull, large infrastructure projects Petrochemical and refinery plants, Large power plants, Oil and Energy, Specialised / emerging / volatile risks with high loss potential as well as Retrocessions, which rely on international reinsurance market for design of the covers, wordings, conditions, capacity, and support.

(d) This regulation shall not apply to reinsurance requirements of Indian Reinsurers/ FRBs / Lloyd's India.

(e) In respect of new / specialized lines of business / innovative products requiring close collaboration with the Reinsurer using his specialist expertise, data base dedicated service and on-going support and advice Insurers shall apply to the Authority requesting specific exception to order of preference stipulation at the stage of inviting competitive quotes for such lines of business and seek their approval.

(iii) Order of Preference for offer of Participation in Reinsurance Cessions :

(a) The Indian Insurer shall offer best terms for participation in the following order of preference:

1. To GIC Re and then [simultaneously to other] Indian Reinsurers, CBRs who provided lead terms with a meaningful capacity, FRBs registered under Regulation 4(a) and Lloyd's India and Indian Insurers.

2. To Reinsurers in SEZ, Joint Venture Partners of the Indian Insurers, Reinsurers and other CBRs satisfying the eligibility criteria above (including overseas reinsurance entities of FRBs' parent group).

(b) This regulation on Order of Preference would also apply to Reinsurance Cessions made by Exempted Insurers

(c) This regulation does not apply to Retrocessions made by Indian Reinsurer/FRBs/ Lloyd's India

(d) This regulation is subject to cession limits.

(iv) Criteria for CBRs :

Every Indian Insurer/Indian Reinsurer/FRB/Lloyd's India/SEZ insurers/Exempted insurers shall place their reinsurance business outside India with only those CBR based on the following eligibility criteria: -

a) The CBR is a legal insurance or reinsurance entity in its home country, regulated and supervised by its home regulators/ supervisors for three past continuous years.

b) The CBR must have at least a credit rating of BBB (with Standard & Poor) or equivalent rating of an international rating agency for immediately preceding three years.

c) The CBR should be registered and/or certified by the home regulator of the country of domicile, with which the Government of India has signed Double Taxation Avoidance Agreement.

d) The past claims settlements of the CBR is found to be satisfactory. Any known instance of denial or delay settling claims must be ascertained.

e) In the interest of Policyholders, Cedants shall ensure appropriate safeguards including Collaterals are put in place in respect Reinsurance placements with CBRs whose financial strength and credit rating for previous three financial years are below BBB from Standard and Poor or equivalent rating from any other International rating agencies.

f) Any other requirements on Collaterals and / or Solvency margin provisions may be stipulated by the Authority as needed.

(v) Limit of Cessions to CBRs :

a) The overall Reinsurance cessions to all CBRs taken together, shall not exceed (a certain percentage) as deemed appropriate by the Authority. This cap on overall cessions to all CBRs taken together from 2018-19 onwards. The Cessions to CBRs shall be reviewed every year and shall not exceed (a certain percentage) as deemed appropriate by the Authority, with effect from 1st April 2021. Cedants shall take necessary action to ensure compliance with this cap with effect from 1st April 2021.

(b) The Authority may, if necessary, call for further information or explanations in respect of a CBR. The Authority may also, if necessary, direct the Indian Insurer /Indian Reinsurer/FRB/ Lloyd's India/SEZ (re)insurers to carry out changes to placement with a CBR and the Indian Insurer/Indian Reinsurer/FRB/ Lloyd's India/ SEZ (re)insurers shall incorporate such changes forthwith and confirm to the Authority.

(vi) Retrocession :

a) Obtaining best terms for Reinsurance Cessions / Protection :

This stipulation shall not apply to reinsurance requirements of Indian Reinsurers / FRBs / Lloyd's India.

b) Order of Preference for offer of Participation in reinsurance Cessions:

This stipulation shall not apply to reinsurance requirements of Indian Reinsurers / FRBs / Lloyd's India.

(vii) Domestic insurance / reinsurance Pools (for general insurance business)

i. The proposal for an Insurance or Reinsurance Pool could be initiated by any of Indian Insurers, Indian Reinsurers, FRBs, Lloyd's India by submitting their proposal to the Authority.

ii. Based on necessity and / or Indian market appetite for a class of risk / product, the Authority may permit domestic insurance / reinsurance pools having regard to the objective, basis, limits, and terms which are fair to all stakeholders.

iii. The domestic Insurance or reinsurance pool would be administered by an Indian Reinsurer or any other Insurer or a FRB or Lloyd's India as per directions of the Authority

iv. Reinsurance regulations shall equally be applicable for all reinsurance arrangements of the pool/s. The Pool Administrator shall submit the returns, details of reinsurance arrangement, statements on the performance of the pool, in the manner and periodicity as stipulated by the Authority from time to time.

v. The Authority can consider issuing separate guidelines for the Constitution of the insurance / reinsurance pool/s, and its/ their administration whenever such needs arise.

vi. The Authority, wherever necessary, shall also advise to Indian Reinsurers or insurers or FRBSs or Lloyd's India to organize domestic pools.

(viii) Specialized / Emerging Risks

Obtaining best terms for Reinsurance Cessions / Protection

This regulation shall not apply to classes of Aviation, Life Insurance, Marine Hull, large infrastructure projects Petrochemical and refinery plants, Large power plants, Oil and Energy, Specialized / emerging / volatile risks with high loss potential as well as Retrocessions, which rely on international reinsurance market for design of the covers, wordings, conditions, capacity, and support

(ix) Exempted Insurers

The definition of "Exempted Insurer" as defined under Sec. 118 (c) of Insurance Act 1938 is included in the proposed regulations.

9. LIFE INSURANCE

Indian Life- Reinsurance Market

Measured by premium income, the life reinsurance market in India is small when compared with general reinsurance premiums or total life insurance premiums. Until recently, reinsurers (except for reinsurers registered in India – i.e. GIC Re) did not come under the ambit of Authority. The recent regulations have brought a framework that will help the Authority monitor the reinsurance business in India and use the expertise of locally based reinsurers to develop the life and health insurance market in India,

This must be kept in mind whilst framing regulations that impact the life reinsurance business. A sustainable life reinsurance business in India and a viable reinsurance business model are important for reinsurers to provide value-add to the market and partner in the rapid growth and development of the Indian Insurance and Reinsurance industry.

Factors to be kept in view

A multi-dimensional view of factors to be kept in view is presented below:

(i) Tapping the Potential for Life insurance :

Reinsurance plays an important role in improving penetration of life and health insurance in India. In life insurance, India has the highest protection gap in Asia. Measured at 92% this means that the gap between resources available to the family in the event of the death of their breadwinner and the resources required to maintain the same financial standard of living is a steep 92%. India also has the lowest Sum Assured to GDP ratio amongst many countries. It is 55% for India as against 150% in Malaysia and 250+% in developed countries.

(ii) Protection and Product mix choice :

Mortality and Morbidity risk assessment and accepting such risks are the core of reinsurance business. Life insurers in Asia have traditionally positioned themselves as experts in long term savings and market linked products with insurance coverage. Increasing the share of Life & Health protection products with innovative and customized products is necessary to increase penetration of Life insurance and to reduce the protection gap.

(iii) Reinsurance policy framework as an Enabler :

A policy framework that enables a win-win ecosystem of reinsurers, life insurers, existing and potential policyholders will help grow the insurance penetration in India, measured in terms of protection gap and Sum Assured to GDP.

In addition, the creation of an optimum reinsurance ecosystem will enable India to emerge as an attractive reinsurance hub. This is also an overarching objective, sought to be achieved soon.

The Committee reviewed the existing Regulations keeping in view the theme of optimum ecosystem which is an enabler and catalyst and making India an attractive hub for reinsurance. As a holistic approach was required, it was necessary to look at practices in other countries with a developed and stable reinsurance market.

The approach suggests a direction which aims to be progressive in its outcome for all stakeholders. Some key factors are given below:

A) **Flexibility –** The 2013 Regulations on Life Reinsurance imposed certain restrictions. At that time there were concerns around whether life insurers were making sufficient efforts to retain more business on their books. Over the years the Authority has introduced measures guiding the Boards of Directors of life insurers via enhanced corporate governance framework. The life insurers are therefore well placed to take their own decisions on how much of risk to keep on their books and how much of risk to transfer to other entities, within their own risk appetite and risk-adjusted return on capital. We therefore believe that the Authority should set broad guidelines on overall risk retention at a portfolio level and leave the management of insurance risks to the life insurers.

B) **Solvency requirements –** The Committee took note of the efforts being made by Authority to move towards a Risk Based Capital regime. Until then, certain anomalies in the solvency requirements should be addressed. For example, the required solvency (at 150%) is 1.5 per 1000 sum-at-risk for one-year group life insurance. This is quite high as in many schemes the life insurer's premium itself is less than this and the reinsurance risk premium is almost one-third of this Required Solvency Margin.

C) **Ease of doing business –** Reinsurance model is business-to-business and hence the rigor applied to life insurers is not fully relevant to reinsurers. Examples include investment norms, corporate governance, outsourcing, and submission of detailed returns. It also must be noted that the life reinsurance volumes are relatively small and hence requirements on retrocession (maximum retrocession at 50% and further not more than 20% of it to one entity) increases the complexity and makes the model inefficient.

D) **Capital Efficiency –** Both established life insurers and the relatively new life insurers may require balance sheet support. For established life insurers it could be in the form of improving the return on capital. For others it could be in the form of capital being made available to grow the business. Certain forms of financial reinsurance, which is recognized and accepted in all major developed markets, therefore, should be considered on a case-to-case basis with prior approval of Authority.

E) **Order of preference -** The nature of life insurance business is such that it goes well beyond offer of reinsurance capacity to insurers. Given the consultative and long term nature of relationship between a life insurer and reinsurer, the sharing of global knowledge to assist life insurers in developing innovative protection products locally, the requirement of providing support in life underwriting and claims assessment throughout the life cycle of the product and technical training in underwriting and claims management, there is merit in stipulating that the order of preference is not appropriate for life insurers and reinsurers.

The Committee's recommendations have been made keeping in view the dynamics of the life reinsurance business to achieve the desired objectives of increased market penetration, and enabling India to become an attractive hub for reinsurance.

10. EXTANT REGULATIONS AND SUGGESTED REVISIONS

I: IRDA (Life Insurance – Reinsurance) Regulations, 2013

1. Filing of Reinsurance Program – (Regulation 4(b))

Committee Deliberations

Regulation 4(b) requires every life insurer to submit Reinsurance Program every year, at least 45 days before the commencement of the financial year. In life insurance business there is no concept of renewal at the beginning of the financial year for life insurance/reinsurance treaties. Effective utilisation of reinsurance as a tool for risk management, product development, underwriting and claims management are often reviewed as part of the financial performance.

Recommendations

Life insurers may be allowed to submit their Reinsurance Program every year along with the annual actuarial returns.

2. Governance of the Reinsurance Program (Regulation 4(c) to 4(h), 5(a), 5(b) and 5(d))

Committee Deliberations

Regulation 4(a) and 4(b) provide guidance to the life insurer in framing Reinsurance Program. Regulation 4(c), 4(d), 5(a) and 5(b) provide more specifics such as catastrophe cover, credit risk and concentration risk. The Committee felt that such details can be left for the Board of Directors of the life insurers to deliberate within the guidance provided in Regulation 4(a) and 4(b).

Regulation 4(c) to 4(h), and 5(d) explain how the Reinsurance Program, including retention policy, should be scrutinised by the Authority.

The Committee felt that Regulation 4(a) and 4(b) are adequate for the life insurer to draw up Reinsurance Program. The overall responsibility for risk management should be left with the Board of Directors of the life insurer.

Recommendations

Regulation 4(c) to 4(h), 5(a), 5(b) and 5(d) to be deleted.

Introduce a new 4(c) in the Proposed Reinsurance Regulations (proposed) to be read as:

> *"The Board of Directors of the Insurer shall be responsible to ensure that reinsurance programs are appropriate and effective to their business and that is part of their wider underwriting, risk and capital management strategies. In formulating and effective implementation of reinsurance program, the Board of Directors of the Insurer shall take into consideration the following at the minimum:*
>
> 1. Insurer's business and reinsurance objectives and its overall risk appetite
>
> 2. Risk concentration and retention limits.
>
> 3. Mechanism to manage and control reinsurance risks.

The insurer shall ensure that an effective internal control system is in place for implementation of reinsurance program."

3. Quota Share: (Regulation 5 (c))

Insurers may be allowed to reinsure on quota share :

i. in the initial two years of starting operations for health insurance business and group term insurance business and

ii. in the initial two years of introducing a new risks/product for health insurance business and group term insurance business Provided the minimum retentions in all such cases shall be at least as referred in Table: 6 (1) applicable to health insurance business and group term insurance business.

Committee Deliberations

Reinsurance is part of a life insurer's risk management toolkit. Equally importantly, reinsurers work with life insurers as long-term partners co-creating life insurance products, provide underwriting support and provide regular training on underwriting and claims. The current regulations are prescriptive about the types of reinsurance. The Committee felt that life insurers should be allowed the freedom to choose types of reinsurance that are appropriate to their business subject to a life insurer retaining a minimum level of the business written on its books.

Practices of many countries were analyzed, and it was observed that the life insurers have the freedom to frame their own reinsurance policies. The Committee felt that India could work towards more delegation to the life insurers and the journey could start by the IRDA keeping the limit at 50% of the sum at risk, across all product lines, as the minimum that a life insurer should retain on its books.

Quota share arrangements will help insurers take on risks with uncertain experience or high - risk schemes more confidently. It is essential to enable higher insurance penetration in market segments where insurance is much needed. Such arrangements would be particularly required for taking on risks which are new or uncertain in nature like:

- Exclusive Products to be offered to rural population where claim severity is generally not high but claim frequency may be significant
- Government sponsored schemes/Company where product idea may not be new, but risks covered may be different than the usual portfolio
- On a case to case basis under group schemes such as rural or affinity groups to be able to write business under large schemes with small sum assureds; akin to PMJJY arrangement
- Designing and writing a new risk where the insurer may not have adequate expertise.
- Developing products for new distribution channels to sell to different target customers,

Products developed with simplified underwriting to enable ease of business and enhance customer experience.

The Committee concluded that life insurers while entering into a quota share arrangement shall be guided by the following:

Uncertain nature of risks, inadequate or no experience and consequently uncertainty in pricing of life insurance products which could arise due to:

New target customer segments, new products, or products with limited or no experience of managing risks, products designed for digital and emerging distribution channels, products with simplified underwriting, evolving health insurance benefits and mass market Life insurance schemes.

Recommendations

The present wordings 5 (c) may be deleted and replaced by:

> *Life Insurers may reinsure on quota share arrangement, on terms other than original premium basis, subject to a Board approved reinsurance Program.*

4. Regulatory Reporting Retention Limits (Regulation 6)

Committee Deliberations

As explained in the above section ("quota share"), life insurers should be allowed to set their own retention policy based on their risk appetite and retention capacity. Such a reinsurance program would be approved by their Board of Directors of the life insurer. The reporting retention limits based on products or age of the company need not to be prescribed by regulation - Section 6 of Reinsurance Regulation 2013.

The Committee also noted that internationally, all significant matured and emerging markets do not restrict the form of reinsurance if proper internal governance is in place regarding reinsurance arrangements.

Keeping in view international practices, the Committee is of the view that India should move towards more delegation to the life insurers and a beginning can be made by prescribing a minimum retention of 50% of the sum-at-risk at the level of the life insurer (across all product lines). Given that nearly all of life reinsurance will be placed with Indian reinsurers or branches of foreign reinsurers in category 4a), this would mean that the minimum risk retention within the country would be at least 50% + 0.5 * 50% = 75%.

In the present context, this is significant as currently (before the Branch regulations) most of the ceded risk was ceded outside India. This will also meet the objective of maximizing retention within the country.

Recommendations

Life insurers may be allowed to set their own retention limits and the reporting requirement be removed. Accordingly, it is recommended that current regulations 3 and 6 be deleted.

A new regulation be introduced as follows:

"Every life insurer shall have a retention of minimum of 50% of the sum-at-risk at an overall portfolio level."

5. Submission of Reinsurance Treaties (Regulation 7)

Committee Deliberations

Regulation 7 requires a life insurer to submit reinsurance arrangements and reinsurance treaties within 30 days of the commencement of the financial year, and submit any changes to a reinsurance treaty within 15 days of such changes. In life insurance, the insurer enters a treaty at the start of the relationship with a reinsurer. It is typically done by products and thereafter any new products or changes in existing terms and conditions are introduced through addendum to the treaties. Thus, filing a change within 15 days of the change and filing the same again at the end of every financial year adds no value. This is because there is no concept of "reinsurance treaty contract in respect of that year" (regulation 7b) in life insurance.

Recommendations

Life Insurers shall submit copy of reinsurance treaty within 30 days of finalizing it and submit any changes within 30 days of such change being finalized.

Existing Regulation 7(a) and 7(b) be deleted and replaced with

"Life insurers shall submit reinsurance treaties and any changes to existing treaties within 30 days of finalizing the same."

6. Submission of Returns: (Regulation 9)

Committee Deliberations

Annexure 7 specifies the forms to be submitted. The Committee agrees that the life insurers and life reinsurers should provide information to the Authority on a regular basis with the objective of helping the Authority understand how reinsurance is adding value to the industry and how the insurers and reinsurers are managing their risks. The level of details sought in the current forms could be reduced considering the objective stated above.

Recommendations

Forms LR-1, LR-2, LR-3, LR-4, LR-5, LR-6, LR-7, LR-8, Input_Reins_9, Input_Reins_12, Input_Reins_13, Statement2 and Statement 3 be withdrawn.

The Committee proposes LR-A and LR-B as new forms (template attached).

II: IRDAI (General Insurance – Reinsurance) Regulations, 2016

7. Cession Limits for Retrocession (Regulation 3(11) (b) to 3(11) (e))

Committee Deliberations

The regulation stipulates limits on retrocession arrangements. Given the low volume of life reinsurance business it will be difficult to spread the retrocession to many reinsurers. Further, the magnitude of risk in life reinsurance is much small and different from some lines of general reinsurance business.

Recommendations

The Committee recommends that. Regulation 3(11) (b) to 3(11) (e) need not apply for life reinsurers.

Proposed Regulation

At the end of Regulation 3(11), add "Explanation: Regulation 3(11) (b), 3(11) (c), 3(11) (d) and 3(11) (e) do not apply to reinsurance placements made for life insurance business."

III. IRDAI (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) (First Amendment) Regulations, 2016 Regulation 5: Order of Preference (OoP) Section 28(9) and Right of First Refusal (RoFR)

8. Order of Preference for Reinsurance cessions:

Committee Deliberations

Selection of a reinsurer in life insurance is not made only based on reinsurance premium rates. Underwriting support, ongoing training to underwriters/claims team/product team/pricing team are some key considerations. A risk is usually ceded for the entire policy term with reinsurer guaranteeing the risk premium rates. Hence, all factors mentioned above are important considerations. Sharing the quote which includes apart from rates, underwriting terms, and conditions (non- medical and financial underwriting considerations) of a reinsurer with another reinsurer goes against the confidentiality agreements/IPR of a reinsurer.

For innovation to thrive in the market, this protection of IPR is necessary to grant the reinsurer who brings in the idea to be protected from having to share the trade secrets with a third party.

Recommendations

The Committee recommends that life insurers may reinsure with Indian Reinsurers and FRBs including Lloyd's India and seek prior approval of the Authority for any exceptions.

IRDAI (Registration and Operations of Branch offices of Foreign Reinsurers other than Lloyd's), Regulations, 2015;

Chapter VI Operation of Branch offices of Foreign Reinsurers Required Solvency Margin (RSM) for Group Life Reinsurance

The Branch office of a foreign reinsurer shall prepare and submit statement of assets, liabilities and solvency margin requirements in the manner as may be specified in the IRDA (Assets, Liabilities, and Solvency Margin of Insurers) Regulations, 2000, as amended from time to time.

Committee Deliberations

In a one-year renewable group protection business, the required solvency at 0.15% (150% of 0.1% which is 1.5 per mille) of sum at risk is often significantly higher than the mortality rate for the average age of the portfolio. For example, there are many group insurance schemes where the life reinsurer charges about 0.5 per 1000 sum assured as the premium. The current required solvency margin is significantly more than the premium.

Recommendations

Group life business to be treated in the same manner as Miscellaneous line of Business for General insurers:

The Committee recommends a move towards a Risk Based Capital framework for assessing solvency requirements. Until then, for valuation of group reinsurance business with policy term of not more than one year transacted by Indian reinsurance companies including FRBs and other registered entities, the Committee is of the view that the group life business be treated in the same manner as the non-life valuation mechanism currently in vogue and be included in the Miscellaneous Line of Business with Required Solvency Margin calculated accordingly.

The Branch office of a foreign reinsurer shall prepare and submit statement of assets, liabilities and solvency margin requirements in the manner as may be specified in the IRDA (Assets, Liabilities, and Solvency Margin of Insurers) Regulations, 2000, as amended by Unified Life – General Insurance Reinsurance Regulations, 2018

IRDAI (Actuarial Report and Abstract for Life Insurance business), Regulations, 2016

9. ARA and Forms:

Committee Deliberations

The contents of the ARA as specified in regulations are relevant to life insurers but not appropriate for business written by life reinsurers.

In view of the nature of reinsurance business model being very different from those of a life insurer, the need to review the forms and their applicability to reinsurers was recognized. The committee considered some of the major differences in terms of receipt of data (premiums and claims on a quarterly basis with a time lag of one to two months after the end of the quarter and the lack of granularity in various aspects). Based on some of the highlighted differences and the data available with reinsurers, the need for a revised set of forms was found necessary.

Recommendations:

Revise suitably the provisions of IRDAI (Actuarial Report and Abstract for Life Insurance business), Regulations, 2016, for Life Reinsurers. The prescribed forms are listed in Annexure '6' Life reinsurance.

1. Form NLB – modified
2. Form IRDAI Assets AA
3. Form KT2
4. Forms KT1, KT3 modified
5. Business figures (Quarterly basis)

A confirmation is required on an annual basis from the parent company of the branch of a foreign reinsurer that the Parent company is solvent as per the solvency regime in the home country.

10. Credit for Reinsurance

Committee Deliberations

Credit for reinsurance is currently limited to a maximum of 15% of mathematical reserves and 50% of sum-at-risk. These are applied at the level of product/risk groupings. In line with the Committee's recommendation to monitor reinsurance retention at the total portfolio level of a life insurer there is a need to amend Required Solvency Margin calculations accordingly.

Current provision in Form KT-1

K1 = 0.85 or (Mathematical Reserves after Reinsurance / Mathematical Reserves before reinsurance), whichever is higher.

K2 = 0.5 or (Sum at Risk after reinsurance /Sum at risk before reinsurance), whichever is higher.

Recommendations:

No change to K1 and K2 but limits may be applied at the Insurer level and not by product line or risk category.

In view of our recommendation to monitor reinsurance at a life insurer's total Portfolio level, it is also recommended that the limits of 0.85 and 0.5 on K1 and K2 respectively are applied at the Insurer level.

(IRDAI (Assets, Liabilities, and Solvency Margin of Life insurance business), Regulations, 2016. Schedule II, Valuation of Liabilities - Life Insurance.)

11. Reserving for Actuarial Liabilities for Life reinsurers (Sec 2 (6))

Committee Deliberations

These regulations are meant for life insurers whose business is predominantly savings and investments linked. Reinsurers take mortality and morbidity risks and charge premium that is on an attained age basis. A large part of the reinsurance business is from group insurance where the reinsurance premiums are guaranteed only for one year. Further, most of the reinsurers are composite (life and general) with life reinsurance forming a smaller part of their portfolio. For these reasons, a simplified approach towards reserving could be considered.

Recommendations

The following approach can be adopted for Life Reinsurance business:

The reserving method could be Unearned Premium Reserve (UPR) and Incurred but Not Reported (IBNR) Reserve. If the actuary feels any additional reserves are required, such reserves can be held. The actuary must consider any guarantees provided in the reinsurance contracts. The valuation of life business shall be based on actuarial principles and shall comply with extant applicable Regulations, Circulars etc. issued by the Authority and any Guidance note issued by the Institute of Actuaries of India.

The reserving should be done based on portfolio of risk basis with due regard to the granularity of relevant data collected by the reinsurer. This means, all the mortality contracts could be considered as a portfolio and morbidity (health) contracts could be considered as another portfolio.

Schedule II, Valuation of Liabilities - Life Insurance, Sec 2 (6) to be amended with an addition to Section 2 (6) as follows:

The valuation method shall be Gross Premium valuation except for the following cases:

(a) One-year renewable Group term assurance including riders ……………………….

(b) Riders attached to individual products…………………

(c) Life reinsurance business

Schedule II, Sec 2 (8) to have an additional para:

Life reinsurance business: If in the opinion of the Certifying Actuary a method of valuation other than UPR method of valuation is to be adopted, then, other approximation methods (e.g.: GPV method) may be used.

Provided that the amount of calculated reserve is expected to be at least equal to the amount that shall be produced by application of UPR method.

Schedule II, Sec 6. Applicability to Reinsurance to be amended as follows:

This Schedule shall also apply to the valuation of business in the books of reinsurers at line of business level

II. Draft of Unified reinsurance regulations recommended

The Committee recommends Unified Reinsurance Regulations for both Life and Non-Life sectors effective 1st April 2018.applicable to all Indian Insurers/Indian Reinsurers Foreign Reinsurance Branches, Lloyd's India, including SEZ insurers as well as Exempted insurers. A draft of the Unified regulations in included in the report in tabular form.(**Annexure 5**)

The Unified Regulations will ensure that there is consistency of approach, whilst acknowledging the differences in structures of various entities. These Regulations will also include revised reporting returns and their frequency for reinsurance entities

III. Alternate Risk Transfer (ART) solutions

(i) Structured reinsurance solutions (General Insurance)

The Committee identified several types of Alternate Transfers for Risk. Each is different in its scope and the manner of its process. GIC Re suggested a Consultation Paper be prepared and circulated for each type of ART Solution prior to formulating any regulation / guideline. The concern is that such risk transfer arrangements should be more than a contingency financial arrangement and pass the Risk Transfer Test applied as per international practice in this regard.

Going forward, there is a potential for the integration of capital markets in Alternate Risk Transfer solutions. Presently any Alternate Risk Transfer arrangement involves a CBR and is done through a CBR. Domestic arrangements do not exist. There is no regulatory oversight at present. There was considerable deliberation within the committee in this regard. Any ART proposal received by the Authority would offer learning opportunities.

For the present this regulation is recommended to enable consider only those structured reinsurance proposals satisfying risk transfer tests that may be prescribed by the Authority. The committee recommends inclusion of such arrangements within the ambit of the Authority's regulations.

The Authority may not allow / consider Alternative risk transfer instruments involving capital markets, at this juncture. Such proposals would need discussions and co-ordination with other capital market regulators like RBI, SEBI etc.

(ii) Financial Reinsurance (Life)

Financial reinsurance is an accepted form of reinsurance in other markets, with strong regulatory oversight. If not structured and governed properly, financial reinsurance can create complexities in understanding the true financial strength of a life insurer. However, financial reinsurance can benefit both established and younger life insurers. The established life insurers could benefit by better balance sheet management to improve return on capital as well as finding cheaper capital to aggressively grow protection business. Younger life insurers will need ongoing capital support and financial reinsurance is one of the ways of solvency management.

Financial reinsurance may be permitted on a case by case basis provided there is significant risk transfer and the type of financing is cash arrangement. Such Financial Reinsurance will be permitted only with Indian Reinsurance companies including FRBs and other registered entities. Every transaction will need to be discussed with and prior approval obtained from the Authority. Some reservation was expressed by a member of the committee regarding the need for financial reinsurance in India. However, the consensus was that an enabling provision is required.

Recommendations

The Committee recommends that the Authority permits financial reinsurance as an option available to life insurers subject to the Authority being satisfied that there is sufficient risk transfer within the proposed arrangement. Further work could be initiated to evaluate any changes required in financial statements and accounting.

A note on Suggested risk transfer test is attached as Annexure6 to this report

Following enabling provision can be included in the Reinsurance Regulations

Structured reinsurance (ART) / Financial Reinsurance (Life):(New provision)

i. Authority shall examine each specific proposal for Financial Reinsurance / ART structured reinsurance solutions involving proposed participation by reinsurers in India and / cross border reinsurers submitted by Indian Insurers, Indian Reinsurers, FRBS and Lloyd's India/ Exempted insurer to the Authority.

ii. The Authority, after due evaluation AND being satisfied with the prescribed risk transfer test shall allow or disallow the ART proposal as submitted on a case to case basis.

iii. Statement showing Risk Transfer Test compliance is to be submitted evidencing Authority's prior approval

iv. ART transactions / structures/ solutions falling outside the scope and Jurisdiction of the Authority would not be permitted.

v. Authority shall formulate separate guidelines in this regard.

vi. Statement showing Risk Transfer Test compliance is to be submitted evidencing Authority's prior approval

IV. Ease of Doing Business

1. RECOMMENDED REPORTING FORMATS AND FREQUENCY

There are several financial reporting requirements for the non-life Insurance companies, some of those reporting requirements would be relevant for primary insurance companies but not so from a branches of foreign reinsurers / Lloyds India point of view.

Reporting by Reinsurer would depend of the data provided by the insurer, which generally takes time. It is also pertinent to note here that the transactions are not very substantial as reinsurers are not dealing with individual policies but dealing only with insurers. As such all the reporting requirements wherever feasible should be half yearly instead of monthly or quarterly.

Regulation/circular/guidelines of the Authority must clearly distinguish between reinsurers registered in India and branches of foreign reinsurers/Lloyd's and insurers.

Some of the financial reports applicable to Non-Life Insurance companies may not be straightaway made applicable to branches of a foreign reinsurer / Lloyds India in India. Reporting formats of Finance, Accounting, Investment and Retrocession needs to be distinguished for life and non-life insurers.

Taking the above into consideration and the reinsurance business model, volume of transactions and channels of business which are significantly different from the primary insurance companies, the Committee recommends to the Authority on the various financial reports to be submitted and their frequency.

Suggested formats (In detail) are being submitted as a separate compilation booklet along with this report.

2. CORPORATE GOVERNANCE

Any regulation/circular/guidelines need to clearly distinguish between reinsurers registered in India and branches of foreign reinsurers/Lloyd's and cedants. Reporting of Finance, Accounting, Investment, and retrocession needs to be distinguished on the patterns mentioned above but also on life and non-life basis.

A. Corporate Governance Guidelines dated 18 May 2016

Reinsurance Branches of Foreign Reinsurers (FRBs) and Lloyd's India submitted that some of the Authority's Corporate Governance Guideline for Insurers in India would not be applicable to them as they are incorporated under the Laws outside India.

Role of Board - Para No. 3 to 7

Significant owners, controlling shareholders – Role of the Board

Governance Structure

Board of Directors, Composition of Board, Role & Responsibility of Board, Fit & Proper Criteria, Disclosures about Meetings of the Board & its Committees

Control Functions

Delegation of functions of the Board – Committees

Committee Deliberations :

Foreign Reinsurance Companies and Lloyd's are incorporated under the laws outside India and as such Indian Companies Act 2013 is not applicable to such companies. Consequently, branches of such foreign reinsurance company in India is not required to have any Board of Directors. Para 14 of the Guidelines also specify that the branches of foreign reinsures in India may not be required to constitute the Board and its mandatory committees as indicated in the said guidelines.

Suggested approach

The Committee recommends that the Authority may consider the request and clarify that Para 3 to 7 of Corporate Governance guidelines are not applicable to branches of foreign reinsurers in India.

B. Outsourcing Arrangements Para No. 10.1

"All outsourcing arrangements of an Insurer shall have the approval of a Committee of Key Management Persons and should meet the terms of the Board approved outsourcing policy."

The Board or the Risk Management Committee should be periodically apprised about the outsourcing arrangements entered into by the insurer and confirmation to the effect that they comply with the stipulations of the Authority as well as the internal policy be placed before them…."

Committee Deliberations

Foreign reinsurers have presence all over the world through their branches or wholly owned subsidiary companies. These Foreign Reinsurers have a global board which usually meets four times a year to discuss critical and strategic areas concerning worldwide businesses. More over most of these foreign reinsurers have many branch offices spread across in various countries / geographies. It would be operationally impractical for them to get involved in day to day matters, approve and manage routine policies of individual branches.

Recommendations:

For branch office of foreign reinsurers, following explanation may be inserted :

In case of branches of foreign reinsurers in India, the reference to the "Board" would mean "Executive Committee of Management".

Reporting to IRDAI- Para 11.4

"Each insurer should designate Company Secretary as the Compliance officer whose duty will be to monitor continuing compliance with these guidelines."

As mentioned earlier, Companies Act, 2013 is not applicable to the branch of foreign reinsurers. Further, as per the provision of IRDAI "Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's Regulations, 2015", Company Secretary is not defined as Key Management Person. As such appointment of Company Secretary per se may not be made applicable to the branches.

Recommendation

Branch offices of foreign reinsurers / Lloyds India, may be allowed to designateChief Financial Officer or any other competent person astheCompliance Officerto monitor continuingcompliancewith theseguideline (not necessarily a Qualified Company Secretary)

Appointment and reporting of Key Management Persons)

"*Key Management Person" means members of the core management team of an insurer including all whole-time directors/ Managing Directors/ CEO and the functional heads one level below the MD/CEO, including the CFO, Appointed Actuary, Chief Investment Officer, Chief Risk Officer, Chief Compliance Officer, and the Company Secretary.*

Section 28(3) of the IRDAI "Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's Regulations, 2015", stipulates that other than CEO *"For the purposes of these regulations, Key Management Personnel shall include Chief Financial Officer and Chief Underwriter."*

Further considering the nature and level of operations of branches of foreign reinsurer in India, it will not be feasible to have all the KMP as defined in the Corporate Governance guidelines.

Recommendations:

Branches of foreign reinsurers / Lloyds India in India, the term "Key Management Persons" shall be as defined in IRDAI "Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's Regulations, 2015". Annexure 2 of IRDAI (Lloyd's India) Regulations, 2016.

Section 13 of the above Regulations requires details of CEO, CUO and CFO of the service company (Key Management Personnel).

The Committee deliberated that Lloyd's India will appoint a CFO, who is a resident in India, and is accountable to the Authority for all finance and investment related activities for Lloyd's India and its service companies. The Lloyd's India CFO will liaise with the service company CFOs to ensure compliance with all IRDAI and other applicable Regulations in India.

Recommendation:

The Authority mayprovide clarification that the CFO of a service company need not be a resident in India, and only the CEO of a service company need to be resident in India.

3. INVESTMENT MANAGEMENT

(i) Operational aspects

(a) Outsourcing

IRDAI Investment Regulation, 2000 Regulation 9, Chapter C para 2 states that"As required under Chapter II, Regulation 7 (c) of IRDAI (Registration of Indian Insurance Companies) Regulations, 2000, as amended from time to time, to ensure proper internal control of investment functions and operations the insurer shall clearly segregate the functions and operations of front, mid and back office (as provided in the Guidance note on Internal / Concurrent Audit of Investment functions of Insurance Companies issued by the Institute of Chartered Accountants of India) **and no function falling under Front, Mid and Back Office Investment function(s), shall be outsourced.** Also, the primary data server of the computer application used for investment management shall remain within the country."

The IRDAI "Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's Regulations, 2015" dated 23 October 2015, Chapter VI 28(5) states that

"The branch office of foreign reinsurer shall retain the core activities such as underwriting, claims settlement and regulatory compliances; and **may outsource functions such as back-office servicing,** IT, accounts, marketing, human resources, administration and publicity. No other function can be outsourced without the prior approval of the Authority"

It is observed that as per the exposure draft dated 2 September 2016 proposing amendment to The IRDAI "Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's Regulations, 2015" Investments function has been proposed to be removed from the list of outsourcing activities. However, the Foreign reinsurance branches would like to have a relief on the same so that they can build the capabilities in house to handle the Investment function within the branch.

Recommendation:

The Committee recommends that Foreign Reinsurance Branches may be permitted to outsource the Investment activities till their investible funds reach a threshold limit. The Authority can prescribe the threshold limit. Once the fund of the Branch exceeds the limit, Authority may prescribe Front office and Back office activities which cannot be outsourced. Prior approval of the Authority must be taken to outsource other investment related functions. As the reinsurance Branches required to retain 50% of the premium income as well as their assigned capital funds within India, the Committee felt that to start with a sum of Rs.2500 crore can be prescribed as threshold limit.

(b) Investment Management

Committee Deliberations:

Reinsurance companies provide risk / loss protection to primary insurers leading to high and volatile claims. Reinsurers work with a time lag (usually a quarter) as insurers submit the reinsurance accounts usually once a quarter. Cumulative effect of the high claim recovery and time lag leads to sometime very low funds flow (float) to reinsurers. Therefore, the investible fund would not be substantial as compared to primary life & non-life insurers. Given the periodicity of funds flow and the size of the fund, the reinsurers may not have than 2-3 market trades in a month.

Regulation 6 & 9 of IRDAI Investment Regulation, 2000 –Returns to be submitted by an insurer & Provisions on Investment Management provides detailed compliance requirements in relation to investment of funds by insurance companies and has been formulated considering high volume of assets under management. However, the reinsurers do not have such high assets under management. It would be tedious for Foreign reinsurance branches to comply with all the requirement of the IRDAI Investment Regulation,2000.

Recommendations:

Given the nature of reinsurance business as discussed above, following amendments are recommended to some of the provisions of Regulation 6 & 9. Of IRDAI Investment Regulation, 2000

Regulation 9, Chapter A para 1

"In case of branches of foreign reinsurer granted license under IRDAI "Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's Regulations, 2015", the role of Investment Committee may be discharged by CFO or any other suitably qualified Chief of Investment.

Regulation 9, Chapter B para 1 & 2

Every branch of foreign reinsurer and Lloyd's India shall draw up, an Investment Policy and place the same before its Executive Committee of Management for its approval and its annual review.

Every branch of foreign reinsurer and Lloyd's India shall have a model code of conduct to prevent insider / personal trading of Officers involved in various levels of Investment Operations and place the same before its Executive Committee of Management for its approval.

Regulation 9, Chapter C para 2

The primary data server of the computer application used for investment management shall remain within the country."

Regulation 9, Chapter E - Risk Management System and its Review

Reporting – Front office and Back office

The Front Office may report through the Chief Investment Officer (CIO)/ Chief Financial Officer (CFO) to the Chief Executive Officer (CEO). Back Office shall be under the overall responsibility of Chief Financial Officer (CFO) who will carry out necessary functions under oversight of CEO.

Dealing Room:

The Dealing Room mayhave a Voice Recorder and procedure for maintaining the recorded conversation and their disposal including procedure like no mobile phone usage in dealing rooms and other best practices

Audit Committee and Board of Directors

The references to audit committee or local Board of Management in the regulations may be replaced by the "Executive committee of branch" for all the branches of foreign reinsurers in India.

Frequency of returns to be submitted by a reinsurer:

Branch Office of foreign reinsurers and Lloyd's India shall be required to file all the investment returns on an annual basis

(ii) Trusteeship

As per IRDAI Insurance Act, 1938 Section 27 sub section 7, Investment assets shall be held in trust for the discharge of the liabilities which shall be vested in Trustees resident in India and approved by the Authority for Insurer incorporated in India whose Share capital to the extent of one-third is owned by elsewhere than in India.

Branches of Foreign reinsurers and Lloyds India made the following submissions before the committee.

1. Issues due to Trusteeship, the additional applicability of SEBI regulations would bring in additional requirements on compliance and could add up on the process requirements and the manner in which foreign reinsurance branch would otherwise operate.

2. Further, clarity required on how this arrangement will operate and what is the role of the service provider in this and whether they would provide an active support in investing the assets or just play a role in monitoring the regulatory requirements.

3. In case it plays an active role, the reinsurer would lose complete control over the entire systems and processes on accounting and operations which they would like to keep it in house. Also, the home office of the reinsurance branch and their regulator could have constraints in such scenario.

4. In case the service provider just provides monitoring support, only an extra layer of monitoring is added which may not be required. Over the above the operational hassles the above trusteeship requirement would add to the costs of the reinsurer which can be avoided.

5. It would be much more effective if a simple internal investment management system is prescribed rather than looking at the trusteeship model. The model adds a lot of compliance burden on the Branches of reinsurers without adding any further value

Recommendation:

The Committee recognized that this issue on Investment trusteeship could require an amendment to the Insurance act (mention relevant section) and recommends to the Authority to take up this issue with Government authorities.

4. FINANCIAL REPORTING REQUIREMENTS

Recommendations :

a. Following reports **may be made applicable** to Branches of foreign reinsurers

S.No.	Financial Report	Frequency
1.	Investments forms 1 to 7 to the extent applicable to Non-life companies	Quarterly
2.	Actuarial forms like IBNR, AA report, FCR, ECR, ALM	Yearly
3.	Half - yearly compliance report for facultative placement	Half Yearly
4.	Outsourcing Guidelines - Half yearly data	Half yearly
5.	Reinsurance program along with board resolution	Yearly
6.	Inward Reinsurance Policy	Yearly
7.	Reinsurance - Details of Outstanding Recoveries (RI/ Coinsurance Pool)	Monthly / Quarterly
8.	Half yearly reporting of solvency ratio for September 30th and March 30th - to be signed by Auditor, Appointed Actuary, and CEO	Half yearly
9.	Information on premium, claims & opening of offices	Quarterly
10.	Furnishing of Annual Financial Statements	Yearly
11.	Submission of information with respect to auditors giving details of firms engaged as Statutory Auditors, Internal, Concurrent, Tax and others if any	Yearly
12.	Certificate under Rule 17 E of Insurance Rules, 1939	Yearly
13.	Reinsurance returns, As per Regulation 3(12) of IRDA (GI - RI) Regulations	Yearly
14.	Annual Report - Compliance Certificate under IRDA	Yearly
15.	Submission of Corporate Governance Report	Yearly
16.	Annual Filing of Compliance Status	Yearly

b. The following financial reports required monthly for Non-Life Insurance companies may be shifted to on a quarterly basis for branches of foreign reinsurers

Financial Report	Frequency	Reasons
Monthly Business Figures along with compliance certificate of CFO	Monthly	Unlike a primary insurance company, the branches of foreign reinsurers would depend on the insurance companies for data. As per the treaties entered the statement of accounts are received on a quarterly basis and hence the reporting's can only be done on a half **<u>yearly basis.</u>** In addition to the above, it may be noted that the report for L&H requires break up of Single premium, regular premium, linked, annuity, with /without profits details and number of lives. A separate quarterly report for reinsurance branches be provided for class of business wise reporting. Half Yearly
New Business data of Brokers to be submitted to Member (Distribution), as per IRDA Circular dated 30.10.2013	Monthly	Half Yearly

(i) Certain reports to be filed by Non-life insurance companies **<u>may not be applicable</u>** to branches of foreign reinsurers and Lloyd's India for reasons as mentioned below:

Financial Report	Frequency	Reasons
Bank assurance report	Monthly	Not Applicable as reinsurers don't have Bank assurance channel
Health Return Monthly	Monthly	Should Not be Applicable to reinsurers as it relates to Primary Insurance companies
Monthly "File and Use" Guidelines	Monthly	Should Not be Applicable to reinsurers as it relates to Primary Insurance companies
Integrated Grievance Management System (IGMS) Return	Quarterly	Should Not be Applicable to reinsurers as it relates to Primary Insurance companies who deal with grievances of retail customers

Financial Report	Frequency	Reasons
Quarterly Submission of Health Data	Quarterly	Should Not be Applicable to reinsurers as it relates to Primary Insurance companies
Shareholding pattern of the Company	Quarterly	Should Not be Applicable to Foreign Reinsurance Branches and Lloyd's India as it relates to Primary Insurance companies who have shareholding pattern. For Branches 100% will be owned by Head Office
AML (Anti-Money Laundering) submission	Quarterly	Should Not be Applicable to reinsurers as it relates to Primary Insurance companies dealing with Retail Customers. Reinsurers will deal only with IRDA registered Insurers.
Public Disclosure - Newspaper (Compliance Certificate)	Half Yearly	Should Not be Applicable to reinsurers as it relates to Primary Insurance companies
Half yearly information on Bank assurance details	Half Yearly	Not Applicable as reinsurers don't
assurance details		deal with Bank assurance channel
Submission of Annual Health Returns	Yearly	Should Not be Applicable to reinsurers as it relates to Primary Insurance companies
Compliance Certificate for Rural and Social Obligations	Yearly	Should Not be Applicable to reinsurers as it relates to Primary Insurance companies providing insurance to retail customers in Rural areas and under Social obligations
Compliance Certificate conforming appropriate procedures in relation to Anti-Fraud Policy	Yearly	There is no mandatory requirement of Anti – Fraud Policy for branches of foreign reinsurers and Lloyd's India hence filing requirement should not be applicable
Monthly Form for Large Risk under Para 17 (4) of File & Use guidelines	Quarterly	Should Not be Applicable to reinsurers as it relates to Primary Insurance companies
Trade Credit Return (Trade Credit Insurance is defined under sec 13B of Insurance Act as Miscellaneous Insurance. But for preparation of financials, it shall be shown as a separate segment.	Yearly	Should Not be Applicable to reinsurers as it relates to Primary Insurance companies
Unclaimed amount of Policyholders	Half Yearly	Should Not be Applicable to reinsurers as it relates to Primary Insurance companies

(ii) The following Investment reports are applicable to Life Insurance companies **may not be applicable for** branches of foreign reinsurers

Report	Frequency	Suggested approach
Form no. 3A part A Section I Statement of Investment Assets (Life Insurers)	Quarterly	Applicable for Life Insurance companies, Branches of foreign reinsurers may be exempted from this form
Form 3A – part A Section II NON - LINKED BUSINESS	Quarterly	Applicable for Life Insurance companies, Branches of foreign reinsurers may be exempted from this form
Form 3A part B Unit Linked Insurance Business	Quarterly	Applicable for Life Insurance companies, Branches of foreign reinsurers may be exempted from this form
Form 3 A part C Statement of NAV of Segregated Funds	Quarterly	Applicable for Life Insurance companies, Branches of foreign reinsurers may be exempted from this form
Form 3A part D Statement of Accretion of Funds	Quarterly	Applicable for Life Insurance companies, Branches of foreign reinsurers may be exempted from this form
Form 3A part E Statement of Investment Details of ULIP Products to Segregated Funds	Quarterly	Applicable for Life Insurance companies, Branches of foreign reinsurers may be exempted from this form

(iii) Non-Financial website public disclosure reports which may not be applicable to Branches of foreign reinsurers

Report	Frequency	Suggested approach
Form NL-9: Pattern of Shareholding	Quarterly	Should Not be Applicable to Branches of foreign reinsurers as it relates to Primary Insurance companies which have Shareholding patterns
Form NL-22: Geographical Spread	Quarterly	The geographical spread should not be applicable for reinsurers as it is not possible to identify the risks placed in the treaty on location basis
Form NL-24: Ageing of Claims	Quarterly	This data is not available with the reinsurer as the claims are settled by the primary insurance company. The reinsurance company settles the claim based on the statement received by them on a quarterly

Report	Frequency	Suggested approach
		basis. Usually we only get information of large cases and claims in Facultative arrangement.
Form NL-25: Claims Data	Quarterly	The above data cannot be submitted by the reinsurers as the number of claims aren't received by the reinsurers in the statement of accounts submitted by the insurer
Form NL-32: Product Information	Quarterly	The products are launched by the Primary insurance companies. Reinsurers will not be directly involved in filing of the products with the Authority or launch of the products directly to the market. Hence the above information can be avoided for reinsurers
Form NL-39: Rural and Social sector obligations	Quarterly	There are no rural of social obligations suggested for the reinsurers in the current set of guidelines. Also, the reinsurer will not be able to product this level of information
Form NL-41 Grievance Disposal		Since the policy holder does not have direct interface with the reinsurers, this will not be applicable

5. WAIVER FROM OTHER REGULATIONS

Applicability of Some of Authority's other regulations to Foreign Reinsurer branches and Lloyds India

The FRBs and Lloyds India made submissions before the Committee as per the Insurance Laws (Amendment) Act 2015 has amended the definition of Insurer to include Section 9(d) *"a foreign company engaged in re-insurance business through a branch established in India."*

In view of the Act definition, some of the regulations which are meant for Protection of retail Policyholder interests become applicable to them. Reinsurance business is essentially between Insurer and Reinsurer, whose business activities and operations are extensively regulated by the Authority.

(i) IRDAI (Protection of Policyholders Interest Regulations) 2002 dated 26 April 2002

IRDAI (Protection of Policyholders Interest Regulations) 2002, *applies to all contracts of insurance effected after 1st October 2002. "These regulations shall apply to all insurers, insurance agents, insurance intermediaries and policyholders"."*

Committee Deliberations :

Protection of Policyholders Interest Regulations aims at providing a framework for protection of interest of the individual insurance policyholders. The regulations lay out the procedural requirements to be complied with by insurers as they cater to the needs of individuals while providing various covers. The regulations list down:

- Requirement of a proposal form
- Matters to be stated in a Life & General Insurance Policy
- Grievance Redressal Procedure
- Claims procedure for Life and General insurance policy
- Policyholders servicing

By the Insurance Laws Amendment 2015, the Protection of Policyholders Interest Regulations becomes applicable to branches of foreign reinsurers and Lloyds in India. As the branches of foreign reinsurers in India do not interact directly with individual policyholders, compliance with the requirements of the regulations will be a challenge. The branches of foreign reinsurers in India will interact with the insurance companies who already have the onus of complying with the above regulations.

The arrangement between a branch office of foreign reinsurer and the insurer will be governed by reinsurance treaties which are placed before the Boards of the insurance companies and submitted to the Regulator along with the annual reinsurance program.

Further the interest of the individual policyholders is protected by the revised Section 45 of Insurance Act which clearly states that no policy can be called in question on any ground after the expiry of three years.

The current regulations are drafted more from a protection of interest of retail policyholders and as such requirement of proposal form and Policyholders servicing should not be applicable to branches of foreign reinsurers.

Recommendations :

Therefore, the Committee recommends that the Authority waives the applicability of the provisions contained within the IRDAI (Protection of Policyholders Interest Regulations) 2002 to branches of foreign reinsurers(FRBs) and Lloyd's in India.

(ii) IRDAI (Insurance Advertisements and Disclosure) Regulations, 2000 read with Master Circular on Insurance Advertisements (IRDAI/LIFE/CIR/MISC/147/ 08/ 2015) dated August 13, 2015

Committee Deliberations :

IRDAI (Insurance Advertisements and Disclosure) Regulations 2000, Regulation 2 (b) defines an insurance advertisement to include any communication related to a policy and intended to result in sale of policy to members of Public.

The Regulations further stated the compliance requirements pertaining to any advertisement issued by an Insurer including maintenance of a register and the requirements to be stated on an advertisement. The Master Circular on Insurance Advertisements dated August 13, 2015 classifies Insurance Advertisement into two categories: Institutional Advertisements; Insurance Advertisements

Para 3 of the Guidelines clarifies that the provisions are to be complied by: all the insurers (Life Insurers, Non-life Insurers and Health Insurers) and the Insurance Intermediaries

The Insurance Advertisements and Disclosure Regulations, aims at ensuring that all solicitation/ sale of products by the insurance companies is clear and transparent to enable the individual makes an informed decision for purchase of an insurance policy. The institutional advertisements issued by insurance companies too need to reflect the correct details regarding the organization.

A reinsurance transaction is by nature, a B2B transaction, and therefore any advertisements as defined in the Master Circular is minimal. The advertisements issued by a Reinsurer are global in nature to cater to all regions where such reinsurance operations/ branches are situated. It may be unviable to file all such advertisements with the regulator which are not specific to the Indian operation. This is particularly the case for foreign reinsurance branches and Lloyd's in India, where the parent entity may have advertisements that are of a global nature

Recommendations :

The guideline was issued on 13 August 2015, whereas, Insurance Law Amendment Act 2015 was published in the Gazette of India on 23rd March 2016.

The Committee recommends, to avoid any misinterpretation of the provision, that Authority may review the applicability of the IRDAI (Insurance Advertisements and Disclosure) Regulations 2000 and Master Circular on Insurance Advertisements dated August 13, 2015 to all reinsurers in India (including foreign reinsurance branches and Lloyd's).

In case the Regulator consider a requirement for the branch of foreign reinsurance branches and Lloyd's in India to comply with the guidelines, the same can be applied to specific advertisements which are localized by the branches to comply with the institutional advertisement requirements. For e.g. Reinsurance branches will not have a toll-free number and hence regulations/ guidelines on toll-free number would not be relevant for FRBs and Lloyds India reinsurance operations in India.

The Committee recommends IRDAI (Insurance Advertisements and Disclosure) Regulations 2000 and Master Circular on Insurance Advertisements dated August 13, 2015. be waived / exempted for Foreign Reinsurance Branches (FRBs) and Lloyds India.

(iii) IRDAI (Maintenance of Insurance Records) Regulations 2015 dated 12 August 2015

Committee Deliberations :

IRDAI (Maintenance of Insurance Records) Regulations 2015, Regulation 3(1) to 3(4) requires every insurer to maintain of record of every policy issued as per Section 14(1)(a) and record of every claim made as per Section 14(1) (b) o the Insurance Act 1938.

The Regulation further goes to state the matter in which such records should be kept and the requirements of security of such records.

Regulations 3(5), (7) & (8) further state requirement of a Board Approved Policy for maintenance of such records and the contents of such policy.

A reinsurance company (including foreign reinsurance branches and Lloyd's India) do not receive individual policyholder level information from the cedant (insurance company).

In addition to the above, the branch of foreign reinsurers in India will not have a local Board. The 'Guidelines for Corporate Governance for Insurers in India' dated 18 May 2016, states that branches of foreign reinsurers in India may not be required to constitute Board and its mandatory committees.

Recommendation :

It is suggested that Authority may clarify on the applicability of the above stated provisions in the (Maintenance of Insurance Records) Regulations 2015 to reinsurance entities (including foreign reinsurance branches and Lloyd's) in India.

The Regulator may consider that reinsurers shall maintain a record of all the Reinsurance Treaties and Facultative reinsurance acceptances submission of such record with the Regulator on an annual basis, or as and when required by the Authority.

V. SOLVENCY AND ACTUARIAL REGULATIONS

Foreign reinsurance Branches have represented that their home offices are regulated under Solvency II regime or similar. In line with global trends, they (FRBs) may be allowed to demonstrate solvency as per their Home Country regulations.

As an interim measure the FRBs had requested that the current solvency framework may be modified to suit the requirements of reinsurance business.

They have presented the following suggestions:

1. Valuation of Liability

The reinsurers' portfolio comprises of combination of proportional and non-proportional risks/contracts and would be subject to much wider variation as compared to direct insurance companies. Further, the contracts could be on Risk Attaching basis or losses occurring basis which is not typically witnessed by direct insurance companies. This is specifically true for reinsurer writing catastrophic reinsurance business.

Reserve for unexpired risks: The determination of reserve for unexpired risk estimations may be computed by the local or Home-office Actuary of the reinsurer. The actuary while determining the UPR and IBNR shall consider the international best practices and extant domestic regulations, if any.

In cases where the Unearned Premium reserve (UPR) is inadequate in the opinion of the actuary to cover the future risks then Premium Deficiency Reserve (PDR) needs to be established by the Actuary.

2. Valuation of Assets

Certain aspects like policyholder balances and agent balances may not be relevant in the context of reinsurance. These may be modified to reflect the characteristics of the reinsurance business while retaining the philosophy behind it.

In Valuation of assets (Schedule II) the following item may be deleted as they are not applicable relevant from a reinsurance perspective:

(i) Agents balances and outstanding premiums in India

(ii) Agents balances and outstanding premiums outside India

The Agents balances can be amended and new clauses incorporating reinsurance broker balances and composite broker balances would need to be incorporated as under:

(i) Balance due from insurers/reinsurers in India and Intermediaries within India beyond 60 days of the payment due date, to the extent they are not realized.

(ii) Balance due from insurers/reinsurers in India and Intermediaries outside India beyond 60 days of the payment due date, to the extent they are not realized.

3. Review of Solvency Factors

<u>RSM 1 factor (Premium based factor)</u>

Traditional reinsurance covers within the non-life business can be primarily classified into proportional reinsurance and non-proportional reinsurance.

Proportional reinsurance

Since the reinsurance branches and Indian reinsurers have composite business license, for Life & Health business, RSM factors as applicable for MISCELLANEOUS LoB for General insurance can be used.

(The Committee has also recommended that Group Life business can be treated like Miscellaneous Line of Business with associated RSM factors and calculations)

NON-PROPORTIONAL REINSURANCE

The Non-Proportional covers also tend to cover multiple classes of business under the same contract. For example:

Non-Marine non-proportional cover usually provides coverage for Fire, Engineering and Miscellaneous (related to property risks) classes of business under the same contract.

Whole Account non-proportional cover usually provides coverage for Fire, Engineering, Miscellaneous (related to property risks), Marine, Personal Accident and Motor class of business under the same contract.

The reinsurer could use the factor applicable for the majority class of business (ex. Fire or Motor as the case may be).

The total RSM for reinsurance companies writing non-life insurance risks would be sum of the RSM determined for proportional and non-proportional covers.

RSM 2 factor (Claims based factor)

While determining RSM2 for Foreign reinsurance branches reinsurance credit for the full extent of retrocession can be allowed. This is particularly relevant in case of catastrophic or individual large risk losses that are largely reinsured where recoveries have already been effected. This situation would be true even for Direct Insurers.

Not allowing for the full extent of retrocession for Catastrophic or Large risk losses would put undue strain on the capital of the insurers / reinsurance branches, as the reinsurance recoveries of such large would have been fully recovered from the reinsurers / retrocessionaires.

Net claims incurred should be used for determining RSM2 instead of current calculation which involves higher of gross and net incurred claims.

Committee Recommendations :

The Committee noted that the Authority had come out with revised solvency regime just one year back after detailed discussion with the industry stakeholders. The Authority is in the process of implementation of RBC and IFRS standards and the time line for such review and implementation could be 3 to 4 years.

The Committee recommends that the Authority may consider the above suggestions the Solvency regulations.

VI. Special Economic Zones (SEZs)

1. SCOPE OF ACTIVITY AND LIMITATIONS

Government has allowed financial services to be operational from Special Economic Zone (SEZ) situated in Gujarat. As per the SEZ Act-2005, SEZs are considered as deemed foreign territories. International Financial Service Centre (IFSC) GIFT City, so far, is the only such Financial Services Zone, which has started its operation in Gujarat. There is possibility of opening of similar zones in other states also. These services include insurance and reinsurance and other related activities.

The Committee invited the officials from IFSC GIFT City to make a presentation. The following representations were made by IFSC officials for consideration of the Committee:

i. Regulations should be benchmarked with prevailing business regulations in Global centers such as Singapore, London, Bermuda etc.

ii. Separate operating guidelines for all IFSC businesses including IFSC Captive Insurance, IFSC Composite Insurance, IFSC Insurance Broking (Indian & Foreign firms) to be notified.

iii. Placement of Offshore risks without Direct Insurer by the Reinsurer having Office in IFSC, in specialty lines of business such as Aviation, Marine Hull and Oil & Energy may be allowed at par with prevailing global practices.

iv. Removal of the word "foreign" from the existing Order of preference be made to allow all the IFSC offices to be at par with Indian companies.

v. Insurance premium received by the IFSC Insurance Office should be allowed for investment with banks both Indian & Foreign. The overseas Premium should be allowed to be held at IFSC Banking Units, which would help them to earn higher rate of returns.

One of the main objectives of IFSC is to encourage exports and it related services. The Authority intends to create a favourable and friendly regulatory environment so that India would emerge as an attractive location for various International reinsurers to establish their offices to form a regional reinsurance hub in due course. Government has already allowed foreign reinsurers including Lloyd's to open their Branch offices in India.

Opening of offices by foreign insurers and reinsurers in IFSCs will certainly help achieving the objectives of making India a Reinsurance hub. In this context, it is important to align insurance and reinsurance regulations in tune with Global benchmarks applicable to export of insurance and reinsurance services.

Observations and recommendations :

As per the provisions made under the SEZ Act, 2005, the SEZ Rules notified by the Govt of India and the guidelines issued by the Authority, the Authority may consider the following provisions which can be made applicable to the IFSC Zones.

2. INSURERS AND REINSURERS IN SEZ

i. Indian and foreign insurance and reinsurance players may be allowed to open their Branch offices in IFSC. It is necessary to ensure that established and renowned entities with good rating, experience and track record can open their offices in such zones.

ii. The Authority may consider a relaxed amount of Net Owned Fund (NoF), say, to the tune of Rs.1000 crore (and not Rs.5000 crore as required under the Insurance Act for opening of a foreign reinsurer's Branch or Lloyd's India).

iii. Branch offices in IFSC should be allowed to transact insurance and reinsurance business from other SEZs also.

iv. The Offices in IFSC may be allowed to transact all reinsurance business from IFSC, other SEZs and from countries outside India.

v. Similarly, the SEZ offices should focus on procuring business mainly from countries outside India. And accordingly, these offices should be allowed to transact direct insurance business from countries other than India, from IFSC and other SEZs. These offices should not be allowed to transact any direct insurance business from DTA except as allowed under 2C(b) of the Insurance Act.

It is further recommended-

a) to allow IFSC offices of Indian companies to transact those classes of business as allowed to their parent companies

b) to permit IFSC offices of foreign companies to transact a class/ classes of business allowed to their Parent company by their home Regulator.

c) not to allow transacting composite business i.e. both life and general insurance business together.

d) To make all transactions in foreign currency only.

Some Committee members opined that the SEZ offices, though considered to be deemed foreign lands, the fact remains that the said offices are practically on Indian soil and will be under control of the Indian regulators. Therefore, it is not appropriate to consider an IFSC office either as a Branch at par with a foreign reinsurer's branch (FRB) or a branch of an Indian company or as a Cross Border Reinsurer (CBR). For all practical purposes, it needs a special consideration. A view, therefore, has emerged that the offices in IFSC should be positioned in between (i) the Indian insurance/ reinsurance companies/ FRBs and (ii) the CBRS in the order of preference stipulations.

Based on this view, the IFSC offices should be allowed to be eligible (i) to offer their reinsurance quotes if the parent company is rated A (-) and above and (ii) to accept the placements before it is placed with a CBR. This would attract foreign players to open their offices in IFSC. However, the offices may be asked to comply with Indian solvency norms. This approach will help achieving the idea of having a reinsurance hub in India.

Captive insurers and off-shore risks in IFSC

The Committee felt that, in view of Insurance Act, it would not be appropriate, at this juncture, to consider the representation of IFSC to allow (i) Captive Insurance as well as the (ii) accepting off-shore risks by an IFSC reinsurance office without involving a direct insurer.

The same rules, as applicable to the FRBs, on corporate governance, solvency, investment, outsourcing, advertisement, shall apply to IFSC offices. Protection of Policyholders' Interests, particularly on the Insurance policies / business procured from IFSC, other SEZs and DTA shall be as per Authority's regulations applicable to Domestic insurers.

3. INSURANCE AND REINSURANCE INTERMEDIARIES IN IFSC

As regards Insurance and reinsurance intermediaries in IFSC the principles applicable for Insurance and reinsurance offices in IFSC can be adopted for Insurance and reinsurance Brokers wishing to open their liaison / representative / branch offices in IFSC. However, overseas Insurance and reinsurance brokers having liaison /representative offices may not be permitted to directly place the business with IFSC insurance / reinsurance offices but would be required to route the business through Indian intermediaries. On similar lines, other intermediaries such as TPAs, Surveyors (corporate) can be considered allowing them to provide services on the policies issued by the IFSC offices.

4. INDIA AS A REGIONAL REINSURANCE HUB

It is necessary to point out that if India has to become a Reinsurance Hub a favourable tax regime for inward reinsurance business done from overseas and ease of doing business will encourage more CBRs to come to India to reap the advantages of lower cost of operations and the reservoir of technical expertise available here.

In line with the changed Indian market the Indian Insurers as buyers of reinsurance and the Reinsurers in India providers of reinsurance would together maximize domestic capacity and therefore maximize retention in India. The Indian Insurers would seek to optimize retention based on their financial strength, solvency need and underwriting considerations.

The recommended reinsurance regulations target to provide, to the Indian Reinsurers / Foreign Reinsurers Branches / Lloyd's India, significant domestic business opportunities on a priority basis.

Besides the above, the Indian Reinsurers and the Foreign Branches in India have increased opportunities to write inward reinsurance from overseas markets.

Applicability of various regulatory provisions to insurers and reinsurers setting up offices in SEZ, maintaining parity or making special provisions to encourage more insurers and reinsurers to set up office in India would encourage / facilitate emergence of India as a strong regional reinsurance hub.)

The Committee requests the Authority to take up with the Government for favourable taxation provisions / climate / waivers that would then attract more reinsurers to set up their operations in the domestic Indian reinsurance market leading to India becoming become a prominent Regional reinsurance hub for inward reinsurance from the Afro-Asian countries.

Annexures and Enclosures

ANNEXURE - 1

Ref: IRDA/NL/ORD/RIN/111/05/2017 Dated: 05.05.2017

Re: Constitution of Reinsurance Expert Committee

The Insurance Regulatory and Development Authority of India (IRDAI) has notified various Regulations, Guidelines, Circulars over the years, pertaining to Reinsurance Business. The enactment of Insurance Laws (Amendment) Act, 2015 has brought about changes in the Reinsurance market in India by facilitating the entry of Foreign Reinsurance Branches (FRBs) and Lloyd's India Branch, Lloyd's Syndicates & Service Companies. Insurance Offices in IFSC (SEZ) have also been set up. In view of these developments it has been decided to carry out a comprehensive review of the existing framework for reinsurance activities including reporting requirements for the various entities. Consequently, the Authority hereby sets up a Reinsurance Expert Committee with the following constitution (Part I). The Terms of Reference of the Committee are specified thereafter (under Part II).

I. *Constitution of the Committee :*

	Name	Organization	Position in the Committee
1.	Mr. M Ramaprasad	Ex-Member, IRDAI	Chairman
2.	Mr. YogeshLohiya	Independent Expert	Member
3.	Mr. K Ramachandran	Independent Expert	Member
4.	Mr. Shankar Garigiparthy	CEO, Lloyd's India	Member
5.	Mr. VenkateshChakravarty	CEO, Gen Re, India	Member
6.	Mr. Sanjay Datta	Chief - Underwriting, Reinsurance & Claims, ICICI Lombard GICL	Member
7.	Mr. Segar Sampathkumar	GM & Director, GIC Re	Member
8.	Ms. Tajinder Mukherjee	GM, The New India Assurance Co. Ltd.	Member
9.	Ms. Madhuri Kulkarni	Executive Director, Actuarial, LIC of India	Member
10.	Mr. K S Gopalakrishnan	MD & CEO, Aegon Life Insurance Co. Ltd.	Member
11.	Ms. MadhuDamle	MD, International Reinsurance & Insurance Consultancy And Broking Services Private Limited (IRICBS)	Member
12.	Secretary General	GI Council	Member
13.	Secretary General	LI Council	Member

	Name	Organization	Position in the Committee
14	Ms. Mamta Suri#	CGM, IRDAI -F&A	Member
15	Ms. Yegnapriya Bharath	CGM, IRDAI - Non-Life	Member
16	Mr. S P Chakraborty	GM, IRDAI - Actuarial	Member
17	Mr. N M Behera	DGM, IRDAI - Non-Life	Convener

Due to transfer, Ms Mamta Suri was replaced by Mr. R.K. Sharma as committee member on date 21.08.2017.

II. ***Terms of Reference of the Committee :***

1. Review the current regulatory framework for Reinsurance and make suitable recommendations.

2. Study international regulatory framework and practices relating to Reinsurance Pools, Alternative Risk Transfer (ART) and such other mechanisms and make appropriate recommendations for India.

3. Study the existing guidelines for SEZ and make necessary recommendations in the context of various Reinsurance activities.

4. Make specific recommendations and devise formats for reports and returns required to be submitted to IRDAI.

The Committee would be expected to interact with all relevant stakeholders—Cedants, Reinsurers, Retrocessionaires, Brokers, Customers etc. before arriving at its recommendations. It may form sub-committees if required, to work on and deliver on the ToR.

III. ***Submission of Report and Recommendations :***

The Committee shall finalize and submit its report to the undersigned on or before 31st August, 2017. The Committee may meet at its convenience and as often as necessary to carry out its deliberations. Travelling allowances and sitting fees will be payable to the Chairman and Members as per the rules of the Authority.

P.J.Joseph
Member (Non-life)

ANNEXURE 2

SNAPSHOT OF ANALYSIS OF DATA ON ORDER OF PREFERENCE

Indian Reinsurance Renewals as at 1st April 2017

Data on Reinsurance Renewals as at 1st April 2017 from Insurers and GIC Re / FRBs was collected from Cedants and Reinsurers in India to determine the trends in Compliance of the Order of preference stipulations quotations as sought and capacity as finally confirmed.

Specifically, following Data on Reinsurance Renewals as at 1st April 2017, for each RI treaty, excess of loss and facultative RI contract

(1) Number of Quotations(terms) received by Insurers as a percentage of Number of Quotations sought by the Insurers and

(2) Capacity provided (offer of participation) by Reinsurers as percentage of Cedants Reinsurance capacity has been summarized in Figure 1 (Proportional treaty, 3 (Excess of Loss), and 5 (Facultative) below.

Correspondingly,

(3) The number of quotations(terms) provided by Reinsurers as a percentage of requests received,

(4) Best terms Percentage from each reinsurer and

(5) Percentage of Capacity for offer of participation provided by the reinsurers

are shown in figures 2 (Proportional treaty),4(excess of Loss), and 6 (facultative) below

Caveats:

1. Data from only 2 PSUs were received;

2. Certain inconsistency / incompleteness has been observed in the Data provided by all Insurers. Hence, approximation have been used to present the snapshot.

I. Proportional Treaties

Summary of data received from GIC Re and FRBs in respect of Proportional treaties is summarised below:

GIC Re:

	Total Number of proposals for Quotation			Your terms as Best terms		Offer for participation received		Offer accepted	Signed lines received
Type of Reinsurance	Received	Quotations provided	Declined to provide terms	No. of contracts	No. of insurers	No. of contracts	No of insurers	No. of contracts	No. of contracts
Pro-rata treaty	134	126	8	69	46	49	38	106	106

Data from GIC Re shown above clearly indicates that all cedants have sought quotations from GIC Re who has also provided the terms. GIC Re has also participated in each of the contracts and got signed line in each one of them.

FRBs:

	Total Number of proposals for Quotation			Your terms as Best terms		Offer for participation received		Offer accepted	Signed lines received
Type of Reinsurance	Received	Quotations provided	Declined to provide terms	No. of contracts	No. of insurers	No. of contracts	No of insurers	No. of contracts	No. of contracts
Pro-rata treaty									
Hannover Re	66	5	61	0	0	64	44	18	18
Munich Re	80	7	42	3	2	99	64	38	38
SCOR Re	70	6	64	6	4	79	56	35	35
Swiss Re	73	34	39	3	3	25	24	23	23
XL Catlin	24	1	23	0	0	59	46	18	18

This data shows that FRBs have been selective in giving quotations. They have offered their capacity in each of the contracts for which Offer of participation was made to them.

Figure 1: From Ceding Insurers

Snapshot of Data provided by insurers

Proportional treaty

	Percentage of Quotations received			**Capacity received for offer of participation**		
Reinsurers -->	**GIC Re**	**FRBs**	**CBRs**	**GIC Re**	**FRBs**	**CBRs**
Cedants						
SAHI companies	100	45	0	74	55	0
AIC	100	25	0	50	11	20
ECGC	100	50	100	33	25	10
PSUs	100	0	0	60	5	92.5
First wave Pvt	100	50	100	45	25	60
Second wave Pvt	100	10	95	45	20	60

Observations :

Insurers sought quotations for their proportional treaties from Indian Reinsurer, FRBs and CBRs. GIC Re has provided quotations for all treaty proposals received from Indian Insurers. They have also provided good capacity to all Insurers.

While PSU insurers did not seek any terms for Proportional treaties from FRBs and CBRs, Private sector insurers sought quotations from GIC Re, FRBs and CBRs. While FRBs have provided some support for quotations, the Private sector insurers, received significant and good response from CBRs.

GIC Re quoted for all quote requests made to them. FRBs selectively quoted to Health, Crop, and Export Credit and first wave general insurers but provided some reasonable capacity to Health insurers.

CBRs quoted well to all Private Indian Insurers and for Export Credit insurer but provided good follow capacity to PSU insurers and fair capacity to private insurers.

Figure 2: From Reinsurers ()

Snapshot of Data provided by reinsurers and FRBs

Pro-rata

	Quotations provided against sought (Percentage)		Best terms of contract		Offer accepted vs offers received (Percentage)	
Reinsurers -->	Indian branch	Overseas Branch	Indian branch	Overseas Branch	Indian branch	Overseas Branch
GIC Re	94	0	69	0	100	0
Hannover Re	3	0	0	0	28	0
Munich Re	9	0	3	0	38	0
SCOR Re	9	0	6	0	44	100
Swiss Re	47	0	3	0	92	0
XL Catlin	4	0	0	0	37	0

Observations :

GIC Re has provided good support for all proportional treaties. Swiss Re has provided moderate support with all other FRBs providing some support. SCOR Re and GIC Re have provided best terms. Munich Re and Swiss Re as FRBs have accepted significant follow shares. SCOR Re Overseas participated significantly in addition to their Branch in India.

Data from Indian Reinsurer and FRBs corroborates the interpretation of data submitted by Insurers. GIC Re provided terms for almost all proportional treaty proposals, FRBs gave moderate response to requests received from Private Sector Insurers. It can be inferred that CBRs have also provided terms to insurers.

In many cases, Best terms were provided by GIC Re and in some cases Best terms were provided by the FRBs as well as CBRs.

II. Excess of Loss Reinsurance

Figure 3: From Ceding Insurers

II. Excess of Loss Reinsurance
Figure 3: From Ceding Insurers

Snapshot of Data provided by insurers

Excess of Loss contracts

	Percentage of Quotations received			Capacity received for offer of participation		
Reinsurers -->	GIC Re	FRBs	CBRs	GIC Re	FRBs	CBRs
CEDANTS						
SAHI companies	0	0	0	0	0	0
AIC	0	0	0	0	0	0
ECGC	0	0	0	0	0	0
PSUs	80	35	85	60	30	76
First wave Pvt	100	60	65	45	50	50
Second wave Pvt	100	40	95	50	25	50

Observations:

Insurers sought terms from GIC Re, FRBs and CBRs. GIC Re provided terms for almost all requests made to them by the insurers. Response from FRBs for offer of terms had been moderate, with significantly higher response to first wave private sector general insurers. CBRs quoted well to PSU insurers and to all private sector general insurers.

Figure 4: From Reinsurers

Snapshot of Data provided by reinsurers and FRBs

Excess of Loss

	Quotations provided against sought (Percentage)		Best terms of contract		Offer accepted vs offers received (Percentage)	
Reinsurers -->	Indian branch	Overseas Branch	Indian branch	Overseas Branch	Indian branch	Overseas Branch
GIC Re	93	0	101	0	100	0
Hannover Re	35	0	2	0	60	0
Munich Re	20	0	7	0	34	0
SCOR Re	9	100	2	0	41	43
Swiss Re	64	0	20	0	99	0
XL Catlin	42	0	4	0	50	0

Observations :

Data provided by reinsurers shows that GIC Re has provided terms to almost all the requests received for terms, while FRBs had selectively provided terms to the requests received. Overseas offices of SCOR had also provided terms to 100% of the requests received.

Terms provided by GIC Re has been the Best terms. Terms provided by FRBs (and by inference) from CBRs by and large have also been taken as the Best terms. All Terms provided by SCOR overseas unit has been the Best terms.

GIC Re has given very good capacity for all offers of participation while FRBs have given significant capacity. We can infer from insurer's data that reasonably good capacity has been received from CBRs for offer of participation. (though direct data has not been collected from CBRs)

III. Facultative Reinsurance

Figure 5: From Ceding Insurers

Snapshot of Data provided by insurers						
FACULTATIVE PROPOSALS						
	Percentage of Quotations received			Capacity received for offer of participation		
Reinsurers -->	**GIC Re**	**FRBs**	**CBRs**	**GIC Re**	**FRBs**	**CBRs**
Cedants						
SAHI companies	0	0	0	0	0	0
AIC	0	0	0	0	0	0
ECGC	0	0	0	0	0	0
PSUs	23	80	91	100	0	100
First wave Pvt	32	18	91	20	10	30
Second wave Pvt	10	0	100	12	5	65

Figure 6: From Reinsurers

Snapshot of Data provided by reinsurers and FRBs						
FAC						
	Quotations provided against sought (percentage)		Best terms of contract		Offer accepted vs offers received (percentage)	
Reinsurers -->	**Indian branch**	**Overseas Branch**	**Indian branch**	**Overseas Branch**	**Indian branch**	**Overseas Branch**
GIC Re	76	0	117	0	100	0
Hannover Re	0	0	0	0	5	1
Munich Re	9	0	1	0	16	100
SCOR Re	6	0	1	0	65	0
Swiss Re	46	0	0	0	100	0
XL Catlin	18	0	35	0	35	0

Observations :

In respect of Facultative Reinsurance contracts, interpretation from data provided by Reinsurers has been considered by the Committee, in view of incomplete and inconsistent data from insurers.

While GIC Re continued to provide quotations (terms) for over 80% of requests received and provided capacity for 100% of offers, the responses from FRBs have been mixed. It is inferred that CBRs have given terms and significant capacity to facultative risks.

General observations :

In respect of FRBs, it is generally seen that the offer of participation received by them are more than the number of requests received for quotations, signifying that individual FRBs have not received all the proposals for quotations.

Similarly, number of quotation proposals is less than number of proposals (as insurers do not seek quotations but seek support for their terms mostly in facultative risks and sometimes in Proportional treaties.

Summary of Data provided by GIC Re

	Total Number of proposals for Quotation			Your terms as Best terms		Offer for participation received		Offer accepted	Signed lines received
Type of Reinsurance	Received	Quotations provided	Declined to provide terms	No. of contracts	No. of insurers	No. of contracts	No of insurers	No. of contracts	No. of contracts
Pro-rata treaty	134	126	8	69	46	49	38	106	106
Excess of Loss	139	129	10	101	66	59	49	140	140
Facultative	737	559	110	117	74	98	41	157	150

This clearly shows that GIC Re has been approached by all Insurers both for seeking terms and for participation. GIC Re has also equally responded very well on the requests.

Analysis and inference :

The Committee noted that from the data as submitted by Cedants and Reinsurers the trends are as follows:

- Almost all Cedants have sought quotation from GIC Re as well as FRBs in India. Most Cedants have not sought terms for their Treaty Reinsurance from any cross-border reinsurer (CBR) at all, some of them have sought quotations from CBRs also.
- No Cedant reported difficulty in placements of treaty Programme. It is not clear whether there have been treaties which are not placed fully. Some Cedants have reported over-placement of some of their treaties.
- Data from GIC Re clearly indicates that all Cedants have sought quotations from GIC Re and who in turn has provided terms for all these quote requests. GIC Re has also participated in each of the contracts as quoted and got signed line in each one of them.
- FRBs have been selective in giving quotations. They have offered their capacity in each of the contracts for which offer of participation was made to them. Their significant selection and interest on non-proportional treaties is to be noted. The offer from Cedants combines both proportional and non-proportional treaties.
- The Committee inferred that while Cedants adhered to the stipulations, FRBs have chosen to provide or not provide quotations based on their underwriting and commercial considerations. CBRs have provided quotations and offered significant treaty and facultative capacity to the market.
- Renewal trends as at 1st April 2017 reveal a historical trust and relationship that GIC Re enjoys with Cedants and continuity in relationships of the Cedants with CBRs.
- CBRs continue to be an important source of capacity to the Indian Insurers and complement GIC Re in the capacity as provided to the Indian Insurers.
- All the three categories of reinsurers providing terms and support to domestic reinsurance needs i.e. GIC Re, FRBs and CBRs are essential to building a domestic reinsurance market. While the reinsurance regulations can tilt towards favoring domestic reinsurers, discouraging CBRs will affect the fundamental nature of risk diversification and cross border capacity.
- In order that domestic reinsurance retention may increase in future, CBRs especially those overseas Insurance groups in joint venture with Indian Insurers must be persuaded to establish their presence as FRBs in India.
- In view of the above, a view was expressed whether the Order of Preference stipulation reflects the market dynamics. Even without the stipulation, all the constituents of Reinsurance markets i.e. Indian Reinsurers, FRBs, Lloyds India and CBRs offering capacity to Indian reinsurance needs would have behaved in the same way as is reflected in the data
- In other words, commercial and other considerations alone drive the seeking of reinsurance quotations and participations. An opinion was expressed that the reinsurance market and dynamics will evolve in this respect. Government support on taxation laws applicable to reinsurance business and repatriation of funds complimented by Authority's reinsurance regulations would encourage all overseas Reinsurers (CBRs) who participate in reinsurance business of Indian insurers to hasten setting up of their offices as FRBs in India

- Active participation by most FRBs, with a few exceptions, in proportional treaties and facultative risks would remain a challenge for FRBs in their building a book of Indian business. The need to have competitive terms for facultative capacity on major risks and finding reinsurance capacity would compel the insurers to seek simultaneous quotations from all reinsurers whether on shore or offshore and offer participation to them on various considerations, not necessarily on price alone.

ANNEXURE 3

NOTE OF DISSENT FROM ONE COMMITTEE MEMBER

I, Segar Sampathkumar, Member of the Reinsurance Experts Committee, hereby record my dissent on some of the recommendations of the Committee.

1. The proposed Regulations seek to modify the existing Provisions on Order of Preference in such a way as to fundamentally alter the approach to reinsurance cessions with Cross Border Reinsurers.

2. Reinsurance is a strategic resource and the Authority should ensure that reinsurance is placed with those entities over which the Authority has sufficient oversight and control. Cross Border Reinsurers are not entities which are regulated by the Authority. The Order of Preference Provisions therefore restrict sourcing of quotes for reinsurance to only the regulated entities. Placements with Cross Border Reinsurers is permitted only for residual lines left after placements with regulated entities.

3. The Order of Preference Provisions only follow the provisions of the Insurance Act as amended, particularly Section 2(9) defining insurers, which has been amended in 2015 which had deleted the earlier clause on entities incorporated under law of any country other than India. The amendment thus excludes Cross Border Reinsurers from the definition of insurers.

4. Reinsurance has been defined for the first time under Clause 2(16B) of the Amended Act. (Definitions on these two terms before and after the Amendment Bill 2015 are attached as Annexure)

5. The position that obtains after the amendment of these two clauses thus entails placement of reinsurance only with regulated entities as defined under Clause 2(9) of the Insurance Act.

6. The present Provisions on the Order of Preference was repeatedly discussed at length at each of the meetings of the Committee. During none of the meetings had anything close to a consensus ever emerged.

7. There were broadly three approaches to these Provisions.

    a. The Provisions be scrapped.

    b. Placements with Cross Border Reinsurers be restricted with adequate safeguards such as Collaterals, Risk Charge, etc. Even among those who favoured this approach there were different views on the safeguards

    c. The present Provisions continue.

8. With such divergent views having surfaced, the recommendation as suggested do not reflect the views of the Committee.

9. The Amended Regulation is effective from 16.01.2017. As per the note of Explanation on the Amended Regulation "The Authority will undertake a review of the working of these regulations and in particular operation of Regulation 28(9) – order of preference for cessions by Indian insurers after a period of one year based on the reportings made to it."

    It is therefore submitted that a review of the amended Regulation could take place after a year of its operation and after assessing the working based on the reporting made to the Authority. Until such review, the Regulation may continue to be in force.

10. It is therefore recommended that the proposed amendments on the Provisions on Order of Preference be not accepted.

ANNEXURE: COMPRABLE PROVISIONS BEFORE AND AFTER THE AMENDMENT TO THE INSURANCE ACT	
2(9) "Insurer" means- (a) any individual or unincorporated body of individuals or body corporate incorporated under the law of any country other than India, carrying on insurance business not being a person specified in sub-clause (c) of this clause which- (i) carries on that business in India, or (ii) has his or its principal place of business or is domiciled in India, or (iii) with the object of obtaining insurance business, employs a representative, or maintains a place of business, in India; (b) any body corporate [not being a person specified in sub-clause (c) of this clause] carrying on the business of insurance, which is a body corporate incorporated under any law for the time being in force in India; or stands to any such body corporate in the relation of a subsidiary company within the meaning of the Indian Companies Act, 1913 (7 of 1913), as defined by sub-section (2) of section 2 of that Act, and (c) any person who in India has a standing contract with underwriters who are members of the Society of Lloyd's whereby such person is authorised within the terms of such contract to issue protection notes, cover notes, or other documents granting insurance cover to others on behalf of the underwriters. but does not include a principal agent' chief agent, special agent' or an insurance agent or a provident society as defined in Part III;	2(9) "insurer" means — (a) an Indian Insurance Company, or (b) a statutory body established by an Act of Parliament to carry on insurance business, or (c) an insurance co-operative society, or (d) a foreign company engaged in re-insurance business through a branch established in India;' Explanation. - For the purposes of this sub-clause, the expression "foreign company" shall mean a company or body established or incorporated under a law of any country outside India and includes Lloyd's established under the Lloyd's Act, 1871 (United Kingdom) or any of its Members;';
NOT DEFINED	2(16B) "re-insurance" means the insurance of part of one insurer's risk by another insurer who accepts the risk for a mutually acceptable premium;

ANNEXURE 4

REINSURANCE COUNTERPARTY CREDIT RISK

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Reinsurance Counterparty Credit Risk

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	A. M. Best	S&P	Fitch	Moody's
5 Reinsurance assumption in Catastrophic Risk Change	Net of reinsurance plus reinstatements and co -participations	Net of reinsurance plus reinstatements and co -participations	Net of generic or companyspecific reinsurance (if the company provides information)	Assumes 90% cession for losses between the 1/25 to 1/100 levels.
6- credit risk impact	Stress Test adds credit risk charge by applying the credit factor to 80% of ceded reserves from first event and by assuming one level downgrade <u>Rating Credit Factor</u> A++ 2% A+ 4% A 6% A- 10% B++ 15-20% B+ 15-20%	Potential matecrial increases in reinsurance recoverable taken into account (analyst discretion) Believed to the be not applicable as aggregate net PML information is used.	The model can be set to assume that the catastrophe reinsurers are hugly rated, the (prospectiveO underwriting risk is reincured by relatively highly rated reinsurances and the existing loss reserve are reinsured by weaker reinsurers. this is done to account for the possibility that the loss reserve may have been reinsured five or more year ago by reinsurers whose credit ratings heve deterirated since then.	Ceded losses are considered reinsurance recoverable and added to reinsurance risk which is par of the rating process.
7- 2nd Event stress Test	Calculate a stressed BCAR including a 2nd net catastrophe PML at the higher of the 1/100 wind for the 1/100 earthquake		Belived to be not applicable as aggregate net PML information is used.	Add randomly generated catastrophes from the seven areas so this included multiple events, but not necessarily second events in same region or peril.

ANNEXURE 5

DRAFT UNIFIED (REINSURANCE) REGULATIONS 2018

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
1. Short title and commencement (1) These regulations may be called the Insurance Regulatory and Development Authority of India (General Insurance - Reinsurance) Regulations, 2016. (2) These Regulations replace the Insurance Regulatory and Development Authority (General Insurance - Reinsurance) Regulations, 2013. (3) These regulations shall come into force on the date of their notification in the Official Gazette.	**I. Short title and commencement** **(1) These regulations may be called the Insurance Regulatory and Development Authority of India Unified (General Insurance - Reinsurance) Regulations, 2018.** **(2) These Regulations replace the Insurance Regulatory and Development Authority (General Insurance - Reinsurance) Regulations, 2016. and Life Insurance (Reinsurance) Regulations, 2013** **(3) These Regulations supersede and replace Regulation 9, Chapter VI, OPERATIONS OF BRANCH OFFICES OF FOREIGN REINSURERS, of the Insurance Regulatory Development Authority of India (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 and Regulation 5 of the First Amendment there under.** **(4) These Regulations supersede and replace Regulation 8, Chapter X, OPERATIONS OF LLOYD'S INDIA, of Insurance Regulatory and Development Authority of India (Lloyd's India) Regulations, 2016** **(5) These regulations shall come into force on 1st April 2018 (suggested)**	The revised short title underscores the unification of regulations pertaining to reinsurance operations across all structures of Reinsurers in the Indian General Insurance market. Reinsurance regulations under Foreign Reinsurers' Branches and Lloyd's India are consolidated within this draft as proposed. Hence, amendments to regulations deleting the relevant provisions of the current regulations for Foreign Reinsurers' Branches and Lloyd's India are also included. All Committee members were unanimous in their view that the multiple RI regulations in the Indian market need to be unified. The date suggested for the roll out of these Unified regulations is 1st April 2018.

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
2. Definitions	**II. Definitions**	Explanation / Notes
In these regulations, unless the context otherwise requires: a) 'Act' means the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999); b) 'Authority' means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of the Act; c) 'Cedant' means (i) an insurer who underwrites and issues an original, primary policy to an insured and contractually transfers (cedes) a portion of the risk to a reinsurer or (ii) a reinsurer who cedes part of contracted risk to a Retrocessionaire.; d) 'Cession' means the part of insurance passed to a reinsurer by the insurer which issued a policy to the original insured or part of contracted risk ceded by a reinsurer to a Retrocessionaire; e) 'Cover note' is a written document issued by the reinsurer or the reinsurance broker authorized by it, detailing the terms and conditions of the contract; f) 'Cross Border Reinsurer' means an insurer/ reinsurer who is not registered in India as an insurance company or reinsurance company or foreign reinsurer branch but, does reinsurance business with	**In these regulations, unless the context otherwise requires:** **a) 'Act' means the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) read with the Insurance Act, 1938;** **b) 'Authority' means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of the Act;** **c) 'Cedant' means (i) an insurer who underwrites and issues an original, primary policy to an insured and contractually transfers (cedes) a portion of the risk to a reinsurer or (ii) a reinsurer who cedes part of contracted risk to another insurer or reinsurer (known as Retrocessionaire)** **d) 'Cession' means the part of insurance passed to a reinsurer by the insurer which issued a policy to the original insured or part of contracted risk ceded by a reinsurer to a Retrocessionaire;** **e) 'Cover note' is a written document issued by the reinsurer or the reinsurance broker authorized by the reinsurer, detailing the terms and conditions of the reinsurance contract;** **f) 'Cross Border Reinsurer' (CBR) means an insurer/ reinsurer who is not registered**	Definitions recognize all categories of Reinsurers providing RI capacity and protection to Indian insurers. The definition of 'Reinsurance Broker' is included to align with Clause 34(d) of Insurance Brokers Regulations, 2013. The definition of Exempted Insurer is included as Sec. 101 A dealing with Voluntary cessions is applicable to them. With the power vested under Section 34 and 34F of the Insurance Act, 1938, the Authority can issue direction to Exempted insurers A definition for Alternative Risk Transfer is included at item (t). For convenience acronyms for Foreign Reinsurer Branch and Cross Border Reinsurer as FRB and CBR are used respectively. Life Insurance is added in the Segment

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
Indian Insurers/ Indian reinsurer, foreign Reinsurer branches. g) 'Facultative Reinsurance ' means reinsurance of a part of a single policy/risk in which cession is negotiated separately and the reinsurer and the cedant have the option of accepting or declining each individual submission; h) 'Financial Year' for the purpose of these regulations shall be the period starting from 1st April to 31st March. i) 'Fronting' means a process by which a direct insurer cedes most of or all of the insurance risk to a reinsurer. j) 'Foreign Reinsurer Branch' means a branch of a Foreign Reinsurer who has been granted certificate of registration by the Authority under the Insurance Regulatory and Development Authority of India (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 or Insurance Regulatory and Development Authority of India (Lloyd's India) Regulations, 2016, as amended from time to time. k) 'Indian Insurer' for the purpose of these regulations means an Indian Insurance company who has been granted certificate of registration by the Authority under the Insurance Regulatory and Development	**in India as an insurance company or reinsurance company or foreign reinsurer branch but, does reinsurance business with Indian Insurers/ Indian reinsurer/ foreign Reinsurer branches/ Exempted insurer as per section 118 (c) of the Insurance Act, 1938.** **g) Exempted Insurer": as defined under Sec. 118 (c) of Insurance Act 1938. '** **h) 'Facultative Reinsurance ' means reinsurance of a part of a single policy/risk in which cession is negotiated separately and the Reinsurer and the Cedant have the option of accepting or declining each individual submission;** **i) 'Financial Year' for the purpose of these regulations shall be the period as defined in Section 2 (41) of the Companies Act, 2013;** **j) 'Fronting' means a process by which a direct Insurer cedes almost all of the insurance risk to a reinsurer without retaining a portion of risk.** **k) 'Foreign Reinsurer Branch' means a branch of a Foreign Reinsurer who has been granted certificate of registration by the Authority under the Insurance Regulatory and Development Authority of India (Registration and Operations of Branch**	

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
Authority (Registration of Indian Insurance Companies) Regulations, 2000 notified from time to time to carry out general insurance business or health insurance business. l) 'Insurance segments' for the purpose of these regulations, shall mean the following) 'Foreign Reinsurer Branch' means a branch of a Foreign Reinsurer who has been granted certificate of registration by the Authority under the Insurance Regulatory and Development Authority of India (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 or Insurance Regulatory and Development Authority of India (Lloyd's India) Regulations, 2016, as amended from time to time. k) 'Indian Insurer' for the purpose of these regulations means an Indian Insurance company who has been granted certificate of registration by the Authority under the Insurance Regulatory and Development Authority (Registration of Indian Insurance Companies) Regulations, 2000 notified from time to time to carry out general insurance business or health insurance business. l) 'Insurance segments' for the purpose of these regulations, shall mean the following	**Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 as amended from time to time. They will be referred to by their acronym as FRB;** **l) 'Indian Insurer' for the purpose of these regulations means (i)an insurer as defined in Section 2 (9) (a) (b) & (c) of the Act, (ii) Exempted Insurers and (iii) has been granted certificate of registration by the Authority.;** **m) "Indian Reinsurer" for the purpose of these regulations means an Indian insurance company who has been granted certificate of registration by the Authority under the Insurance Regulatory and Development Authority (Registration of Indian Insurance Companies) Regulations, 2000 as amended from time to time as a reinsurer;** **(n) 'Insurance segments' for the purpose of these regulations, shall mean the following** **i) Fire;** **ii) Marine;** **iii) Health (including Personal Accident & Travel);** **iv) Motor;** **v) Miscellaneous;** **vi) Any other segment (under miscellaneous segment) which contributes more than 10 percent of the Gross Written**	

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
i) Fire; ii) Marine; iii) Health (including Personal Accident & Travel); iv) Motor; v) Miscellaneous; vi) Any other segment (under miscellaneous segment) which contributes more than 10 percent of the Gross Written Premium of the Miscellaneous segment of business; vii) Life Insurance vii) Any other segment as may be specified by the Authority from time to time m) 'Pool' means any joint underwriting operation of insurance or reinsurance in which the participating insurer/s or reinsurer/s assume a predetermined and fixed share in all business written; n) 'Retrocession' means the transaction whereby a reinsurer cedes to another insurer or reinsurer all or part of the reinsurance it has previously assumed; o) 'Retention' means the portion of the risk which an insurer/reinsurer assumes for his own account; p) 'Reinsurance contract' is the legally binding document on all the parties that provides a	**Premium of the Miscellaneous segment of business;** **vii) Life Insurance** **vii) Any other segment as may be specified by the Authority from time to time** **o) "Lloyd's India" means the branch office of the applicant granted certificate of registration by the Authority under Insurance Regulatory and Development Authority of India (Lloyd's India) Regulations, 2016, as amended from time to time.** **p) 'Pool' means any joint underwriting operation of insurance or reinsurance in which the participating insurer/s or reinsurer/s assume a predetermined and fixed share in all business written;** **q) "Reinsurance Broker" – reference to broker in these regulations is as defined in Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2013 as amended from time to time.** **r) "Reinsurance slip" is a document which provides the abridged details of the risk and terms and conditions offered for reinsurance** **s) 'Retrocession' means a reinsurance transaction whereby a Reinsurer cedes to another Insurer or Reinsurer, (known as 'Retrocessionaire',) all or part of the reinsurance he**	

Present regulations (General Insurance - Reinsurance) Regulations 2016	Proposed Regulations (proposed)	Explanation / Notes
complete, accurate and definitive record of all the terms and conditions and other provisions of the reinsurance contract; q) 'Treaty' means a reinsurance arrangement between the cedant and the reinsurer, usually for one year or longer, which stipulates the technical particulars and financial terms applicable to the reinsurance of defined class or classes of business; r) Words and expressions used and not defined in these regulations but defined in the Insurance Act, 1938 (4 of 1938) or the General Insurance Business Nationalisation Act, 1972 (57 of 1972) or Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), rules made there under shall have the meanings respectively assigned to them in those Acts or rules as the case may be.	**has previously assumed** **t) 'Retention' means the portion of the risk which an insurer/ reinsurer assumes for his own account;** **u) 'Reinsurance contract' is a commercial agreement legally binding on all the parties evidenced by a Reinsurance slip or cover note or similar document, that provides a complete, accurate and definitive record of all the terms and conditions and other provisions of the reinsurance contract;** **v) Financial and / or Structured Reinsurance solutions' – Alternative Risk Transfer solutions that are tailored to specific needs and profile of an Insurer/Reinsurer;** **w) 'Treaty' means a reinsurance arrangement between the Cedant and the reinsurer, (usually for one year,) evidenced by a Reinsurance Slip or Cover Note or similar document which stipulates technical and commercial terms and conditions;** **x) Words and expressions used and not defined in these regulations but defined in the Insurance Act, 1938 (4 of 1938) or the General Insurance Business Nationalisation Act, 1972 (57 of 1972) or Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), or Life Insurance Act, 1956), rules or regulations made thereunder shall have the meanings respectively**	

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
	assigned to them in those Acts or rules.	
3. Reinsurance Arrangements: Objectives & Procedures	**III. Reinsurance Arrangements: Objectives & Procedures**	Explanation / Notes
(1) Objectives The Reinsurance Programme of every Indian Insurer/ Indian Reinsurer/Foreign reinsurer branch shall be guided by the following objectives to: (a) Maximize retention within the country; (b) Develop adequate capacity; (c) Secure the best possible reinsurance protection/ coverage required to protect the interest of the policy holder/ insurer at a reasonable cost (d) Simplify the administration of business.	**(1) Objectives** **The Reinsurance Programme of every Indian Insurer/ Indian Reinsurer/FRB/Lloyd's India/ Exempted insurer shall be guided by the following objectives to:** **(a) Maximize retention within the country;** **(b) Develop adequate capacity;** **(c) Secure the best possible reinsurance protection/ coverage required to protect the interest of the policy holder/insurer at a reasonable cost** **(d) Simplify the administration of business.**	No Change The domestic Indian reinsurance market is now diverse with the emergence of another Indian Reinsurer, branches of Foreign Reinsurers and Lloyd's Syndicates in India and with potential for more future additions. The 30+ Indian Insurers as buyers of reinsurance in the Indian market are distinct from 12+ domestic providers of reinsurance now established on Indian soil. The current Indian insurance and reinsurance market scenario was deliberated by the Committee and a view was taken that the objectives as set in the existing reinsurance regulations can remain unchanged. The Indian Insurers as buyers of reinsurance and the providers of reinsurance in India together would maximize capacity and retention in India. The Indian Insurers would seek to optimize retention based on their financial strength, risk appetite, solvency need and underwriting considerations.

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
		The objectives are well founded in the views expressed by the Standing Committee that submitted its report to the Parliament in December 2011 endorsed by Select Committee in December 2014 leading to amendment of law in year 2015 permitting branches of foreign reinsurers and Lloyd's to be set up in India. This regulation considers that the FRBs / Lloyd's India have well established internal process to maintain and preserve their financial strength rating.
(2) Retention policy a) Every Indian insurer/Indian reinsurer/foreign reinsurer branch shall maintain the maximum possible retention commensurate with its financial strength, quality of risks and volume of business. b) Every Indian insurer/Indian reinsurer/ foreign reinsurer branch shall formulate a suitable retention policy for each insurance segment. In case the insurance segment consists of more than one product, retention policy for each product shall be separately defined. c) The Authority may require an Indian insurer/Indian reinsurer/ foreign reinsurer branch to justify its retention policy and may give such directions as considered necessary in order	**(2) Retention policy** **a) Every Indian Insurer/Indian Reinsurer/FRB/Lloyd's India / Exempted insurer shall maintain the maximum possible retention commensurate with its financial strength, quality of risks and volume of business.** **b) Every Indian Insurer/Indian Reinsurer/FRB/Lloyd's India/ Exempted Insurer shall formulate a suitable segment wise retention policy bearing in mind the objectives, duly approved by the Board of Directors** **c) Life insurance business,every life insurer shall have a retention of minimum of 50% of the sum-at-risk at an overall portfolio level.** **d) The Authority may require an Indian Insurer/Indian Reinsurer/**	Change in sub-regulation (b) reflects reliance upon Board of Management of the Indian Insurer / Indian Reinsurer / FRBs/Lloyd's India. Together with the Indian Reinsurers, FRBs and Lloyd's India, the Indian Insurer will maximize retention within India. In life insurance, the current restrictions on disallowing quota share and reporting of retention limits that are below the specified amounts be removed. Instead, the responsibility for overall risk management, including reinsurance, should be left to the Board of Directors of the life insurers. Having said that, the Authority could prescribe a minimum retention limit at the insurer level.

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
to ensure that the Indian insurer/ Indian reinsurer/foreign reinsurer branch is not merely fronting for a Cross Border Reinsurer. Regulations 5 and 6 of IRDAI (Life Insurance – Reinsurance) Regulations, 2013	**FRB/Lloyd's India to justify its retention policy and may give such directions as considered necessary in order to ensure that the Indian Insurer/Indian Reinsurer/FRB/Lloyd's India// Exempted Insurer is not merely fronting for a Cross Border Reinsurer.**	
(3) Obligatory Cession: Every insurer shall cede such percentage of the sum assured on each policy for different classes of insurance written in India to the Indian reinsurer/s as may be specified by the Authority in accordance with the provisions of Part IVA of the Insurance Act, 1938.	**(3) Obligatory Cession** **Every Indian Insurer shall cede such percentage of the sum assured on each policy for different classes of insurance written in India as may be specified by the Authority in accordance with the provisions of Part IVA of the Insurance Act, 1938.**	The meeting with stakeholders noted a suggestion that mass business like Motor and Health may be kept out of obligatory cession. Another view was expressed that the Obligatory cessions should be phased out in due course.
(4) Reinsurance program a) The reinsurance Programme of every Indian insurer/Indian reinsurer/ foreign reinsurer branch shall commence from the beginning of every financial year. b) Every Indian insurer/Indian reinsurer/ foreign reinsurer branch shall submit to the Authority, its board approved reinsurance Programme along with retention policy for the forthcoming year, 45 days before the commencement of the financial year. c) If any amendment is made in the Reinsurance program subsequent to it being filed with the Authority, the Indian insurer/ Indian reinsurer/ foreign reinsurer branch, shall file with the Authority, the Final	**4) Reinsurance Program** **For General Insurance Business and Health Insurance Business:** **a) The reinsurance Programme of every Indian Insurer/Indian Reinsurer/ FRBs/Lloyd's India/ Exempted Insurer shall commence from the beginning of every financial year** **b) Every Indian Insurer/Indian Reinsurer /FRBS/Lloyd's India/ Exempted Insurer shall submit to the Authority, its Board approved reinsurance Programme along with retention policy for the forthcoming financial year, 45 days before the commencement of the financial year.** **c) If any amendment is made in the Reinsurance Program after**	Sub-regulation (d) as existingnded to retain submission of details of structure of reinsurance Programme and reinsurance cost. Change in sub-regulation (d) reflects reliance upon Board of Management/ the Indian Insurer/Indian Reinsurer / Executive Committee of FRBs/Lloyd's India. Sub-regulation (d) (ii) allows inclusion of cost of "any alternative risk transfer arrangement". This allows for any Alternate Risk Transfer arrangement to be approved by the Authority on a case to case basis under the new Regulation 12 in respect of Alternate Risk Transfer. The changes also consider

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
Reinsurance Program, together with the approval of the Board of Directors within 30 days of the commencement of the financial year. d) The final reinsurance program of the Indian insurer/ Indian reinsurer/foreign reinsurer branch shall include but not limited to, the following i) The parameters considered for fixation of retention limits for every product of each insurance segment ii) Proposed retention limits on every product of each Insurance Segment along with corresponding retention limits in the previous year. iii) Levels of Net retention ratio on each Insurance Segments for previous three years. iv) Insurance Segment wise, product wise actual premium income for the last financial year and the projected premium income for the forthcoming financial year. v) Structure of Reinsurance program with details of Proportional arrangements for each Insurance Segment (including treaty capacity, retention limits, Estimated premium, Reinsurance commission, Event limits etc.) and Non-Proportional	**it being filed with the Authority, the Indian Insurer/Indian Reinsurer/FRBs/Lloyd's India, shall file with the Authority, the Final Reinsurance Program, together with the approval of the Board of Directors within 30 days of the commencement of the financial year.** **d) The Final Reinsurance Program of the Indian Insurer/ Indian Reinsurer/ FRBS/ Lloyd's India/Exempted Insurer shall include, but not limited to, the following –** **i) The parameters considered for fixation of retention limits for each** **insurance segment** **ii) Proposed retention limits each Insurance Segment along with corresponding retention limits in the previous year.** **iii) Levels of Net retention ratio on each Insurance Segments for previous three years.** **iv) Insurance Segment wise actual premium income for the last financial year and the projected premium income for the forthcoming financial year.** **v) Structure of Reinsurance program with details of Proportional arrangements for each Insurance Segment ......** **However, treaty slips shall be maintained and made available to the Authority for inspection, if so required.**	

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
	i) Structure of Reinsurance program with details of Proportional arrangements for each Insurance Segment (including treaty capacity, retention limits, estimated premium, reinsurance commission, Event Limits, etc.) and Non-proportional **arrangements (including EGNPI, Cover Limits, Deductible, XL premium, Reinstatement provisions etc.)** **ii) Statement of Reinsurance cost (in terms of quantum as well as percentage to Gross Written Premium) giving details of Gross Written Premium, premium ceded on proportional arrangements, ceded on non-proportional arrangements and any Structured / alternative risk transfer arrangements.** **The statement shall include projected costs for the forthcoming year and the actual costs for the previous two years.** **Statement showing Risk Transfer Test compliance is to be submitted evidencing Authority's prior approval.** **(iii) Details of Inter-Company risk sharing reinsurance arrangements shall be submitted to the Authority as part of annual Reinsurance Programme.** **For Life Insurance Business**	

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
	e) Every Indian Insurer/Indian Reinsurer/FRBs/Lloyd's **(4) Reinsurance Program** **For General Insurance Business and Health Insurance Business:** **a) The reinsurance Programme of every Indian Insurer/Indian Reinsurer/ FRBs/Lloyd's India/ Exempted Insurer shall commence from the beginning of every financial year** **b) Every Indian Insurer/Indian Reinsurer /FRBS/Lloyd's India/ Exempted Insurer shall submit to the Authority, its Board approved reinsurance Programme along with retention policy for the forthcoming financial year, 45 days before the commencement of the financial year.** **c) If any amendment is made in the Reinsurance Program after it being filed with the Authority, the Indian Insurer/ Indian Reinsurer/FRBs/Lloyd's India, shall file with the Authority, the Final Reinsurance Program, together with the approval of the Board of Directors within 30 days of the commencement of the financial year.** **d) The Final Reinsurance Program of the Indian Insurer/ Indian Reinsurer/ FRBS/ Lloyd's India/Exempted Insurer**	

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
	shall include, but not limited to, the following – **i) The parameters considered for fixation of retention limits for each insurance segment** **ii) Proposed retention limits each Insurance Segment along with corresponding retention limits in the previous year.** **iii) Levels of Net retention ratio on each Insurance Segments for previous three years.** **iv) Insurance Segment wise actual premium income for the last financial year and the projected premium income for the forthcoming financial year.** **v) Structure of Reinsurance program with details of Proportional arrangements for each Insurance Segment ......** **However, treaty slips shall be maintained and made available to the Authority for inspection, if so required.** **i) Structure of Reinsurance program with details of Proportional arrangements for each Insurance Segment (including treaty capacity, retention limits, estimated premium, reinsurance commission, Event Limits, etc.) and Non-proportional arrangements (including EGNPI, Cover Limits, Deductible, XL premium, Reinstatement provisions etc.)**	

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
Arrangements (including EGNPI, Cover limits, Deductible, XL premium, Reinstatement provisions etc.) vi) Statement of Reinsurance cost (in terms of quantum as well as percentage to Gross Written Premium) giving details of Gross Written premium, premium ceded on proportional arrangements and ceded on non-proportional arrangements. The statement shall include projected costs for the forthcoming year and the actual costs for the previous two years.	**ii) Statement of Reinsurance cost (in terms of quantum as well as percentage to Gross Written Premium) giving details of Gross Written Premium, premium ceded on proportional arrangements, ceded on non-proportional arrangements and any Structured / alternative risk transfer arrangements.** **The statement shall include projected costs for the forthcoming year and the actual costs for the previous two years.** **Statement showing Risk Transfer Test compliance is to be submitted evidencing Authority's prior approval.** **(iii) Details of Inter-Company risk sharing reinsurance arrangements shall be submitted to the Authority as part of annual Reinsurance Programme.** **For Life Insurance Business** **e) Every Indian Insurer/Indian Reinsurer/FRBs/Lloyd's India/ Exempted Insurer shall submit the reinsurance program every year along with the annual actuarial returns.**	the nature of life insurance business where there is no concept of renewal of reinsurance treaties at the beginning of every financial year and reinsurance is an effective tool for risk management, product development, underwriting support, and claims management.

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
	f) The Board of Directors of the Insurer shall be responsible to ensure that reinsurance programs are appropriate and effective to their business and that is part of their wider underwriting, risk, and capital management strategies. In formulating and effective implementation of reinsurance program, the Board of Directors of the Insurer shall take into consideration the following at the minimum: **g) Insurer's business and reinsurance objectives and its overall risk appetite** **h) Risk concentration and retention limits.** **i) Mechanism to manage and control reinsurance risks.** **j) The insurer shall ensure that an effective internal control system is in place for implementation of reinsurance program.**	
(5) The Indian insurers/Indian reinsurers/ foreign reinsurer branches shall ensure that the reinsurance arrangements in respect of catastrophe accumulations are adequate, by using various realistic disaster scenarios. The catastrophe modelling report and the basis on which the quantum of catastrophe protection is purchased for the forthcoming year may be detailed in the Reinsurance program and shall be approved by their Board of Directors. A synopsis of the report, shall be filed with the Authority along-with the final reinsurance Programme.	**(5) Catastrophic Perils or Risk Protection (for general insurance business)** **i) The Indian Insurers /Indian Reinsurers / FRBs/Lloyd's India shall ensure that their reinsurance arrangements in respect of catastrophe accumulations are adequate, by using various realistic disaster scenarios at all times.** **ii) The catastrophe modeling report and the basis on which the quantum of catastrophe protection is purchased for each of the perils such as**	Rating agencies consider a minimum of 1-in-250 years as a basis for better FSR rating. Solvency II has lowered this requirement to 1-in-200 years. Modeling is to be done for each type of catastrophic peril. Limits to be purchased can be aligned to estimates for each type of catastrophic peril.

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
	earthquake flood/inundation, cyclone /windstorm for the forthcoming year may be detailed in the Reinsurance Programme and be approved by the Board of Directors. **The type of catastrophic peril to be modeled shall follow the exposure to the portfolio.** **A synopsis of the report shall be filed with the Authority along-with the Final Reinsurance Programme**	
(6) Every Indian insurer/Indian reinsurer / Foreign Reinsurer Branch shall within 30 days of the commencement of the financial year, file with the Authority a copy of every reinsurance treaty contract wordings and excess of loss cover note in respect of that year together with the list of all reinsurers, their ratings, and their shares in the proportional & non-proportional reinsurance arrangement.	**Deleted. (already included in (4) above)**	
(7) Every Indian Insurer/Indian reinsurer/ foreign reinsurer branch shall file with the Authority any new reinsurance arrangement, giving full details, documentation, reasons for such an arrangement together with the approval of the Board of Directors within 15 days of approval of the Board. The Indian insurer/ Indian reinsurer/ foreign reinsurer branch shall further ensure that the renewal of such a reinsurance arrangement coincides with the financial year.	**(6) Filing with the Authority of Details of New Reinsurance Arrangements.** **Every Indian Insurer/Indian Reinsurer/ FRBs/Lloyd's India/ Exempted insurer shall file with the Authority any new reinsurance arrangement, giving full details, documentation, reasons for such an arrangement together with the approval of the Board of Directors within 15 days of approval of the Board.**	No change. In life insurance, the reinsurer and the insurer enter into a treaty at the start of their relationship. Thereafter, amendments are made whenever a new product is added, or any terms are altered.

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
	Life insurance business:Every Indian Insurer/Indian Reinsurer/ FRBs/Lloyd's India/ exempted insurer shall submit copy of reinsurance treaty within 30 days of finalising it and submit any changes within 30 days of such change being finalised.	
(8) The Authority may, if necessary, call for further information or explanations in respect of the reinsurance Programme. The Authority may also, if necessary, direct the Indian insurer/Indian reinsurer/foreign reinsurer branch to carry out changes to the reinsurance Programme filed with it and the Indian insurer/Indian reinsurer/ foreign reinsurer branch shall incorporate such changes forthwith in their reinsurance Programme and submit the revised program to the Authority.	**7) Further Directions of the Authority in respect of the Reinsurance Programme** **The Authority may, if necessary, call for further information or explanations in respect of the reinsurance Programme. The Authority may also, if necessary, direct the Indian Insurer/Indian Reinsurer/FRBS/ Lloyd's India to carry out changes to the reinsurance Programme filed with it andthe Indian Insurer/ Indian Reinsurer/FRBs/ Lloyd's India shall incorporate such changes forthwith in their reinsurance Programme and submit the revised program to the Authority.**	No change.
(9) Cross Border Reinsurers: i) Eligibility Criteria: Every Indian Insurer/Indian reinsurer/ foreign reinsurer branch shall place their reinsurance business outside India with only those cross-border reinsurers based on the following eligibility criteria: - a) The cross-border reinsurer is a legal entity in its home country, regulated and supervised by its home regulators/ supervisors.	**Every Indian Insurer/Indian Reinsurer/FRB/Lloyd's India/ SEZ insurers/Exempted insurers shall place their reinsurance business outside India with only those CBR based on the following eligibility criteria: -** **a) The CBR is a legal insurance or reinsurance entity in its home country, regulated and supervised by its home regulators/ supervisors for three past continuous years.**	The Global Reinsurance Forum has noted that India has one of the most complex registration and onerous local reporting requirements for CBR. I) In sub-regulation (d) the emphasis is specifically upon settlement of claim and not merely on claims performance. There are instances of CBR with the highest financial strength rating of AAA with AM BEST

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
b) The financial strength, quality of the management and adequacy of technical reserving methodologies of the cross-border reinsurer should be monitored by its supervisory authority, in the home country. c) The Cross-Border reinsurer having at least a credit rating of BBB (with Standard & Poor) or equivalent rating of an international rating agency for immediately preceding three years. d) The Cross-Border Reinsurer should be registered and/or certified by the home regulator of the country of domicile, with which the Government of India has signed Double Taxation Avoidance Agreement. e) The Cross-Border Reinsurer having solvency margin/capital adequacy not less than as stipulated by the home regulator for previous three continuous years. f) The past claims performance of the cross-border reinsurer is found to be satisfactory. g) Any other requirements as stipulated by the Authority from time to time. ii) Reinsurance placements with Cross Border Reinsurers, not fulfilling the above stated eligibility criteria shall require prior approval of the Authority. Under such circumstances, the Indian insurer/Indian reinsurer/	**b) The CBR must have at least a credit rating of BBB (with Standard & Poor) or equivalent rating of an international rating agency for immediately preceding three years.** **c) The CBR should be registered and/or certified by the home regulator of the country of domicile, with which the Government of India has signed Double Taxation Avoidance Agreement.** **d) The past claims settlements of the CBR is found to be satisfactory. Any known instance of denial or delay settling claims must be ascertained.** **e) In the interest of Policyholders, Cedants shall ensure appropriate safeguards including Collaterals are put in place in respect Reinsurance placements with CBRs whose financial strength and credit rating for previous three financial years are below BBB from Standard and Poor or equivalent rating from any other International rating agencies.** **f) In national interest and in the interest of regional pools, the Authority shall approve the capacity participation of Indian insurers/ reinsurers/ FRBs/ Lloyd's India as well as insurance / reinsurance Cession to such Pool.** **g) Any other requirements on Collaterals and / or Solvency**	being poor in their claim settlement. II. Ability to recover reinsurance amounts due from a CBR should receive due weightage in the process of making a placement with that CBR. To address the Counter party risk of reinsurance dues / recovery, sub-regulation (e) is included. This requires lesser rated CBR to provide Collateral to Indian Insurer / Indian Reinsurer/FRBS/ Lloyd's India. III. Every Indian Insurer/ Indian Reinsurer/FRBS/ Lloyd's India must fully comply with this regulation with no deviations permitted. IV. Pools such as FAIR Pool have a long historical association with the Indian market. They are the outcome of time tested Regional Cooperation in Insurance. Sub-regulation (f) in these regulations provides for facilitation of transactions with unrated pools in national and/or regional interest. The Authority would be the sole provider of direction in this regard. V. The Committee felt that in order that India emerges a prominent Reinsurance Hub in the region, it is necessary to calibrate the extent of CBR's participation

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
foreign reinsurer branch shall, seek approval from the Authority stating sufficient reasons and justifications as to why they propose to place reinsurance business with a cross border reinsurer which does not fulfill the stated eligibility criteria. All such placements shall be reported to the company's board. iii) The procedure to be followed for filing information regarding the Cross-border reinsurers, participating the reinsurance programs of the Indian Insurer/ Indian reinsurer/foreign reinsurer branch shall be governed by the guidelines issued by the Authority, in this regard from time to time	**margin provisions may be stipulated by the Authority as needed**	in Indian reinsurance cessions with a 3-4-year road map to encourage more CBRs to set up their operations in India. (refer item 8. (ii)) At 1st April 2018: a maximum of 60% of overall cessions after retention and obligatory cessions. 1. At 1st April 2019: a maximum of 45% of overall cessions after retention and obligatory cessions. 2. At 1st April 2020: a maximum of 30% of overall cessions after retention and obligatory cessions. 3. At 1st April 2021: a maximum of 15 % of overall cessions after retention and obligatory cessions. Depending upon evolution of market conduct and practice a further review shall be undertaken for renewals as at 1st April 2022
(Regulation 12: Through IRDAI (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) (First Amendment) Regulations, 2016) "Every Indian Insurer shall obtain best terms for their facultative and treaty surpluses from Indian reinsurer(s) having a minimum credit rating which is having at least good financial	**9) Obtaining best terms for Reinsurance Cessions / Protection** **(a) Every Indian Insurer shall be free to obtain best terms for their reinsurance protection requirements from –** **Indian Reinsurer(s) (with a Financial Strength and credit rating of not less than A- from S&P or equivalent) and** **At least three from FRBs and Lloyd's India and from any CBR**	Preserving the right of Ceding companies: 1. Obtaining competitive prices for the policyholders' interest (price discovery): Freedom to seek quotations simultaneously from domestic reinsurers and CBRs to continue unchanged as per established practice. 2. Determining Best Terms, and basis of Placement and any other

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
security characteristics from any of the internationally renowned credit rating agencies for the previous three years and also from at least three entities which have been granted certificate of registration under Regulation 4(a) of these regulations. (Regulation 12: Through IRDAI	**established in jurisdictions to be specified by the Authority from time to time with financial strength and credit rating of S&P A- or equivalent from any other international financial and credit rating agencies.** **Indian Insurers and their offices in the SEZ are not permitted to offer competitive terms for domestic Reinsurance risks / treaties / contracts.** **(b) This regulation would apply to Exempted Insurers as defined** **(9) Obtaining best terms for Reinsurance Cessions / Protection** **(a) Every Indian Insurer shall be free to obtain best terms for their reinsurance protection requirements from –** **Indian Reinsurer(s) (with a Financial Strength and credit rating of not less than A- from S&P or equivalent) and** **At least three from FRBs and Lloyd's India and from any CBR established in jurisdictions to be specified by the Authority from time to time with financial strength and credit rating of S&P A- or equivalent from any other international financial and credit rating agencies.** **Indian Insurers and their offices in the SEZ are not permitted to offer competitive terms for domestic Reinsurance risks / treaties / contracts.**	commercial consideration on the RI contract with any Reinsurer These regulations target to provide to the Indian Insurers – 1. Choice of competitive rates and terms (price discovery) with efficiency in turnaround time bearing in mind policyholder's interest 2. Exclusivity in reinsurance arrangement on merits of requirement of a specific line of business with a Reinsurer. With the power vested under Section 34F of the Insurance Act, 1938, the Authority

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
	(b) This regulation would apply to Exempted Insurers as defined under Sec. 118 (c) of Insurance Act 1938. ' **(c) This regulation shall not apply to reinsurance requirements of Indian Reinsurers / FRBs / Lloyd's India.** **(d) This regulation shall not apply to classes of Aviation, Life Insurance, Marine Hull, large infrastructure projects Petrochemical and refinery plants, Large power plants, Oil and Energy, Specialised / emerging / volatile risks with high loss potential as well as Retrocessions, which rely on international reinsurance market for design of the covers, wordings, conditions, capacity, and support.** **In respect of new / specialized lines of business / innovative products requiring close collaboration with the Reinsurer using his specialist expertise, data base dedicated service and on-going support and advice Insurers shall apply requesting specific exception to order of preference stipulation to the Authority at the stage of inviting competitive quotes for such lines of business and seek their approval.**	
(Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) (First Amendment) Regulations, 2016)	**a) The Indian Insurer shall offer best terms for participation in the following order of preference:**	Preference in Offer for Participation in reinsurance Cessions applies to Indian Insurers only. In order to maximize retention within the domestic

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
The Indian insurer shall then offer the best terms for participation in the following order of preference; (a) To the Indian re-insurer(s) having a minimum credit rating as given above and thereafter to those granted certificate of registration under regulation 4 (a) of these Regulations. (b) To other Indian re-insurer(s) or to those granted certificate of registration as per regulation 4 (b) of these regulations. (c) To the branch offices of foreign reinsurers set up in Special Economic Zone, only after having offered to all entities in (a) and (b) above (d) The balance, if any, may thereafter be offered to Indian Insurers and overseas reinsurers	**(i) To GIC Re and then[simultaneously to** **other]Indian Reinsurers, CBRs who provided lead terms with a meaningful capacity, FRBs registered under Regulation 4(a) and Lloyd's India and Indian Insurers.** **3. (ii) To Reinsurers in SEZ, Joint Venture Partners of the Indian Insurers, Reinsurers and other CBRs satisfying the eligibility criteria above (including overseas reinsurance entities of FRBs' parent group).** **(b) This regulation on Order of Preference would also apply to Reinsurance Cessions made by Exempted Insurers** **(c) This regulation does not apply to Retrocessions made by Indian Reinsurer/FRBs/ Lloyd's India** **(d) This regulation is subject to cession limits.**	market, Indian Insurers interested to accept inward reinsurance are included along with reinsurers in sub-regulation (ii). Retrocessions are exempted from this regulation 10. Selection of a reinsurer in life insurance is not made only based on reinsurance premium rates. Underwriting support, ongoing training to underwriters/claims team/ product team/pricing team are some key considerations. A risk is usually ceded for the entire policy term with reinsurer guaranteeing the risk premium rates. Hence, all factors mentioned above are important considerations. Sharing the quote which includes apart from rates, underwriting terms, and conditions (non- medical and financial underwriting considerations) of a reinsurer with another reinsurer goes against the confidentiality agreements/IPR of a reinsurer. For innovation to thrive in the market, this protection of IPR is necessary to grant the reinsurer who brings in the idea to be protected from having to share the trade secrets with a third party.
(10) Based on necessity, and / or Indian market appetite for a class of risk / product, the Indian Reinsurer/s and/ or Foreign Reinsurer's Branch/ shall organise domestic pools, in	**(11) Domestic insurance / reinsurance Pools (for general insurance business) The proposal for an Insurance or Reinsurance Pool could be initiated by any of Indian Insurers, Indian Reinsurers, FRBs, Lloyd's India by**	Given their track record of administering pools in the past such as Indian Motor Third Party Insurance pool, declined risk pool the Terrorism Pool and Nuclear Pool, GIC Re is assigned the role of Pool Administrator for the Indian market.

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
consultation with all Indian insurers and / or foreign reinsurer branches on matters relating to objective, basis, limits and terms which are fair to all stakeholders. The arrangements so made shall be submitted to the Authority within three months of the formation of such pools, for approval. The Authority, wherever necessary, shall also advise the Indian reinsurer to organise domestic pools, in collaboration with Foreign Reinsurer's Branches, (if required). These regulations shall equally be applicable for all reinsurance arrangements of the pool. The pool Administrator shall submit the returns, details of Reinsurance arrangement, statements on the performance of the pool, in the manner and periodicity as stipulated by the Authority from time to time.	**submitting their proposal to the Authority.** **Based on necessity and / or Indian market appetite for a class of risk / product, the Authority may permit domestic insurance / reinsurance pools having regard to the objective, basis, limits, and terms which are fair to all stakeholders.** **The domestic Insurance or reinsurance pool would be administered by an Indian Reinsurer or any other Insurer or a FRB or Lloyd's India as per directions of the Authority** **These reinsurance regulations shall equally be applicable for all reinsurance arrangements of the pool/s.** **The Pool Administrator shall submit the returns, details of reinsurance arrangement, statements on the performance of the pool, in the manner and periodicity as stipulated by the Authority from time to time.** **Constitution of the insurance / reinsurance pool/s, and its/ their administration would be notified by the Authority as a separate guideline under this regulation.** **The Authority, wherever necessary, shall also advise to Indian Reinsurers or insurers or FRBs or Lloyd's India to organize domestic pools.**	However, Authority shall decide on the formation and administration of the Pools. Initiation of a request to constitute a pool must be processed through GI Council if it comes from Indian Insurers, Indian Reinsurers, FRBS, Lloyd's India
(11) Cession limits: a) Surplus over and above the domestic reinsurance arrangements can be placed with any of the cross-border reinsurers, complying with regulation 3(9).	**12) Cession limits for CBRs.** **The overall Reinsurance cessions to all CBRs taken together, shall not exceed (a certain percentage) as deemed appropriate by the Authority. This cap on overall cessions to all CBRs taken together from 2018-19 onwards.**	CBR capacity by Indian Insurers is expected to gradually reduce over the years when more CBRs set up branch operations in India leading to India emerging as a prominent Reinsurance Hub in the Region.

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
b) Such placements are subject to the insurance segment-wise limits stipulated under regulation 3 (11) (e) of these regulations. These limits define the maximum reinsurance cession that can be made to any Cross-border reinsurer under any insurance segment. c) These cession limits are applicable on reinsurance placements made to Cross Border reinsurers by the Indian insurer/s and retrocession arrangements made by the Indian Reinsurer/s to Cross Border reinsurers d) The cession limits shall also be applicable on all retrocession arrangements made by foreign reinsurer branches with Cross Border Reinsurers. e) Insurance segment wise limit of the total reinsurance premium that may be placed with any one cross border reinsurer shall be as follows: Rating of Reinsurers (as per Standard & Poor and applicable to other equivalent international rating agencies) Overall Limit of cession allowed (Proportional, Non-proportional &Facultative arrangements) BBB & BBB+ of Standard & Poor 10%	**The Cessions to CBRs shall be reviewed every year and shall not exceed (a certain percentage) as deemed appropriate by the Authority, with effect from 1st April 2021. Cedants shall take necessary action to ensure compliance with this cap with effect from 1st April 2021.** **Indian insurer, in respect of cessionsto CBRs, shall seek approval of the Authority giving reasons for such cessionexceeding the limits specified.** **(c) The Authority may, ifnecessary, call for further information or explanations in respect of a CBR. The Authority may also, if necessary, direct the Indian Insurer /Indian Reinsurer/FRB/ Lloyd's India/ SEZ (re)insurers to carry out changes to placement with a CBR and the Indian Insurer/ Indian Reinsurer/FRB/ Lloyd's** **India/ SEZ (re)insurers shall incorporate such changes forthwith and confirm to the Authority.**	Further, the additional requirement of collateral from a lesser rated CBR by an Indian Insurer adds to security of that CBR. Given the above the regulation relating to Cession Limits can be deleted. Alternatively, Life Insurance Business – Given the low volume of life reinsurance business it will be difficult to spread the retrocession to many reinsurers. Further, the magnitude of risk in life reinsurance is much small and different from some lines of general reinsurance business. One of Member's views (1) To retain the provision of cession limits based on international ratings, (2) Segment-wise limits need to be removed). (3) Cession limits may be applicable on the overall placements of reinsurance business (both within and outside India) of a particular cedant, so that the placements are not concentrated with a particular CBR. This may form part of CBR guidelines. Therefore, a road map may be drawn for overall

<table>
<tr><th>Present regulations (General Insurance - Reinsurance) Regulations 2016</th><th>Proposed Regulations (proposed)</th><th>Explanation / Notes</th></tr>
<tr><td>Greater than BBB+ and up to & including A+ of Standard & Poor 15%

Greater than A+ of Standard & Poor 20%

Explanation: The above percentages are to be calculated insurance segment wise, on the total reinsurance premium ceded in India & outside India.

Where it is necessary in respect of any insurance segment to cede a share exceeding the limits specified under regulation 3(11) (e), to any cross-border reinsurer, the Indian insurer/Indian reinsurer/ foreign reinsurer branch shall seek specific approval of the Authority giving reasons for such cession.</td><td></td><td>placements with CBRs all together against a particular cedant as below-<table><tr><th>1st yr.</th><th>2nd yr.</th><th>3rd yr.</th><th>4th yr.</th><th>5th yr.</th></tr><tr><td>50%</td><td>40%</td><td>30%</td><td>20%</td><td>15%</td></tr></table></td></tr>
<tr><td>(13) Any repatriation of surplus generated by the operation of the branch office of the foreign reinsurer shall be governed by the Insurance Regulatory and Development Authority of India (Registration and operations of Branch offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 or the Insurance Regulatory and Development Authority of India (Lloyd's India) Regulations, 2016, whichever is applicable</td><td>deleted</td><td>The applicable regulations are in force under the Insurance Regulatory and Development Authority of India (Registration and operations of Branch offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 or the Insurance Regulatory and Development Authority of India (Lloyd's India) Regulations, 2016, and require to be complied by FRBS / Lloyd's India. There is no need to cite / restate again the same regulation.</td></tr>
<tr><td>(14) The foreign reinsurer branch shall ensure that they maintain the minimum retention limits stipulated under the</td><td>deleted</td><td>The applicable regulations are in force and require to be complied by FRBS / Lloyd's India. There is no need to cite</td></tr>
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Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
Insurance Regulatory and Development Authority of India (Registration and operations of Branch offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 or the Insurance Regulatory and Development Authority of India (Lloyd's India) Regulations, 2016, whichever is applicable, at all times.		/ restate again the same regulation. Further, this is regulated under the proposed Regulation III (2) (c) above.
Alternate Risk Transfer - Not Regulated.	**(12) Financial Reinsurance (Life Insurance Business) or Alternative Risk Transfer (New provision)** **i) Authority shall examine each specific proposal for Financial Reinsurance / ART solutions involving proposed participation by reinsurers in India and** **/ cross border reinsurers submitted by Indian Insurers, Indian Reinsurers, FRBS and Lloyd's India/ exempted insurer to the Authority.** **The Authority, after due evaluation AND being satisfied with the prescribed risk transfer test shall allow or disallow the ART proposal as submitted on a case to case basis.** **Authority shall formulate separate guidelines in this regard** **Statement showing Risk Transfer Test compliance is to be submitted evidencing Authority's prior approval.**	There was considerable deliberation in this regard. For the present this regulation is recommended to enable consider any such proposal satisfying risk transfer tests that may be prescribed by the Authority.

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
No Provision	**13) Limit on Reinsurer Risk Concentration (New Provision) (Applicable to general insurance business)** **(i) Aggregate of all cessions by an Indian Insurer to any one single reinsurer in one financial year shall not exceed -----%.(to be decided, if considered). This cap does not apply to Indian Reinsurer/FRBs/ Lloyd's India.** **(ii) Indian Insurers are not permitted to accept Domestic reinsurance treaties or contracts (other than Facultative Reinsurance contracts) from other Indian insurers to avoid market spirals.** **(iii) Waiver of cession limits,** **The application of cession limits can be waived for Indian Reinsurers, FRBs, Lloyd's India and SEZ reinsurers. provided the retrocession premium being paid only to the parent entity and not to any other entity**	Item (i) would ensure placements by an Indian Insurer to a panel of Reinsurers. Item (ii) would ensure wider spread of large risks in the market. This is not relevant to life insurance business.
4. Inward Reinsurance Business	**IV. Inward Reinsurance Business**	
i) Every Indian insurer wanting to write inward reinsurance business shall have a well-defined underwriting policy approved by its Board of Directors for underwriting inward reinsurance business. ii) The Indian insurer shall file with the Authority, at least forty-five days before the commencement of each financial year, its inward reinsurance underwriting policy	**i) Every Indian Insurer/Indian Reinsurer/FRBS/ Lloyd's India wanting to write inward reinsurance business shall have a well-defined underwriting policy approved by its Board of Directors for underwriting inward reinsurance business.** **ii) No Indian Insurer shall quote for or lead a reinsurance protection in the Indian reinsurance market. Indian Insurer shall only accept a follow share in reinsurance cessions made within India.**	Indian Reinsurer(s) /FRB/ Lloyd's India must be fully encouraged to quote, accept, and lead inward reinsurances from overseas markets also. The Committee requests that the Authority may pursue with the Government for total exemption from any type of tax on inward reinsurance into India from overseas markets. This tax arbitrage, would make the Indian reinsurance market attractive to overseas markets in South East Asia, Far East, Middle East, and Africa.

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
stating the classes of business/ insurance segments, geographical scope, underwriting limits, and profit objective. iii) The Indian insurer shall ensure that decisions on acceptance of inward reinsurance business are made by persons with necessary knowledge and experience. iv) The Indian insurer shall also file with the Authority any changes to the inward reinsurance underwriting policy as and when a change is made duly approved by its Board of Directors.	**iii) The Indian Insurer/Indian Reinsurer/FRBs/ Lloyd's India shall file with the Authority, at least forty-five days before the commencement of each financial year, its inward reinsurance underwriting policy stating the classes of business/insurance segments, geographical scope, underwriting limits, and profit objective.** **iv) The Indian Insurer/Indian Reinsurer/FRBs/ Lloyd's India shall ensure that decisions on acceptance of inward reinsurance business are made by persons with necessary knowledge and experience.** **v) The Indian Insurer/Indian Reinsurer/FRBs/ Lloyd's India shall also file with the Authority any changes to the inward reinsurance underwriting policy as and when a change is made duly approved by its Board of Directors.**	Indian Insurers are licensed as direct insurers. While they may domestically accept inward facultative reinsurances, they may not act as lead reinsurer.
5. Outstanding Loss Provisioning	**V. Outstanding Loss Provisioning (for general insurance business)**	
1) Every Indian insurer/Indian reinsurer/ foreign reinsurer branch shall make outstanding claims provisions for every reinsurance arrangement accepted on the basis of loss information advices received from Brokers/Cedants and where such advices are not received, on an actuarial estimation basis. 2) In addition, every Indian insurer/Indian reinsurer/foreign reinsurer branch shall make an appropriate provision for incurred but not reported	**i) Every Indian Insurer/Indian Reinsurer/FRB/ Lloyd's India shall make outstanding claims provisions for every reinsurance arrangement accepted on the basis of loss information advices received from Brokers/Cedants and where such advices are not received, on an actuarial estimation basis.** **ii) In addition, every Indian Insurer/Indian Reinsurer/FRB/ Lloyd's India shall make an appropriate provision for incurred but not reported (IBNR) claims on its**	No change.

Present regulations (General Insurance - Reinsurance) Regulations 2016	**Proposed Regulations (proposed)**	Explanation / Notes
(IBNR) claims on its reinsurance accepted portfolio on actuarial estimation basis.	**reinsurance accepted portfolio on actuarial estimation basis**	
6.	**VI. Information and Statistics**	
Every Indian insurer/Indian reinsurer/foreign reinsurer branch shall be required to submit to the Authority information and returns relating to its reinsurance transactions in such forms and manner as the Authority may stipulate from time to time or require together with its annual accounts.	**i) Every Indian Insurer/Indian Reinsurer/FRB/Lloyd's India shall be required to submit to the Authority information and returns relating to its reinsurance transactions in such forms and manner as the Authority may stipulate from time to time or require together with its annual accounts.**	In practice it is noted that information by way of public disclosures are at variance with financial statements. A certificate from Key Persons that the submitted / uploaded data is verified and found correct would provide integrity for use of such data.
7. Power of the Authority to issue clarifications:	**VII. Power of the Authority to issue clarifications:**	
In order to remove any doubts or the difficulties that may arise in the application or interpretation of any of the provisions of these Regulations, the Chairperson of the Authority may issue appropriate clarifications or guidelines as deemed necessary	**In order to remove any doubts or the difficulties that may arise in the application or interpretation of any of the provisions of these Regulations, the Chairperson of the Authority may issue appropriate clarifications or guidelines as deemed necessary**	No change.

ANNEXURE 6

Structured Reinsurance Solutions and Risk Transfer tests

In the global land-scape the Reinsurance companies are expected to provide holistic solutions to the insurance industry. Non- traditional Reinsurance by their very nature are tailor-made and therefore cannot be generically addressed as significant expertise is needed by the seller (tax, finance, risk management etc.) to propose a sustainable structure that meets the Regulatory requirements.

Sometimes, such Non–Traditional solutions may lead to the blurring of the boundary between Insurance and banking and the arrangement may be interpreted as a loan or cash deposit with no effect on the underwriting result. This has implications for the client's financial reporting and potentially it's Regulatory Rating.

The existing accounting standards like IFRS and US GAAP already provide guidance on how to distinguish between financial instruments and insurance contracts. At times when a contract may contain both elements it may call for unbundling of these elements for proper application of the guidelines.

Traditional Reinsurance

Some contracts are reasonably "self -evident" in terms of risk transfer and require a minimum level of technical analysis to establish the same. The IAIS (2006) paper; the EU directive by the EU Council of Ministers 2005 and the " Reinsurance Attestation Supplement 20-1: Risk Transfer Testing Practice note" by the American Academy of Actuaries (AAA 2007) provide more detailed examples of how a checklist for risk transfer could look like.

A straight forward quota-share with no risk limiting or any other variable terms like sharing positive and negative contract experience and the ceding company being compensated for all acquisition costs qualifies as a "self-evident" risk transfer contract. In the Risk XL or Cat XL where the reinsurer assumes all the volatility would also qualify for a "self-evident" risk transfer contract provided the Rate on line is reasonable.

Non-Traditional Reinsurance (Structured solutions)

These contracts are not reasonably "self-evident" in terms of risk transfer as per American Academy of Actuaries (2007) and in such case the company will have to evaluate the risk transferred under the contract by analysing the risk exposures, defining the loss scenarios and modelling the resulting cash flows.

Some examples are as follows:

1. Non-Proportional solutions per risk, per occurrence or aggregate excess of loss contracts where the premium approaches the present value of coverage provided, and / or the contact contain significant risk limiting features e.g. profit commissions

2. Contracts in which there is significant sharing of the positive or negative experience

3. Multiyear and / or multiline contracts with provisions where contractual terms are adjusted in later years based on contractual experience in the earlier years

4. Proportional Quota share contacts with risk limiting features such as a capping on the loss ratio, loss corridors or sub-limits or other variable features e.g. sliding scale commissions sharing positive or negative contract experiences.

Some of the foregoing structures are evidenced as a) Multi-line Multi-year treaties with large refunds of Profit commission or additional premiums paid in case of loss to the structure b) Structured Aggregate

Stop loss c) Motor Quota share to improve solvency with a low-level cap on the loss ratio d) Loss Portfolio Transfers e) Adverse Development Covers. The foregoing list is not exhaustive.

Common Risk Transfer tests

In case of Non-Traditional Reinsurance, the most common tests by International Supervisory Boards Worldwide are the following:

10 – 10 Rule: 10% loss with a 10% probability at least

Formula:

Present value of negative cash flows between the cedant and the reinsurer= 10% with a probability of 10% or more Present value of all cash flows from the cedant to the reinsurer

Where:

Present value of all cash flows to the reinsurer are amounts paid or deemed to be paid to the reinsurer (e.g. premiums, reinstatement premiums, portfolio entries etc.)

Present value of all cash flows between cedant and reinsurer (premiums, commissions, claim payments, profit commission etc.)

Some traditional risk transfer solutions like the top layers of the Property Cat XL may not pass the 10 – 10 rule as the frequency is so low there may not be a 10 % chance of a loss to the Reinsurer.

The 10 – 10 rule also ignores the risk in the tail of distribution beyond the 90th percentile. Only the present value at the 90th percentile (VaR) is considered

Expected reinsurer deficit (ERD)

ERD was introduced by the Casualty Actuarial Society in 2002 to overcome the shortcoming in the 10-10 rule and the product rule.

The ERD is defined as follows:

$ERD = p * T/P >= A$

where

p = probability of net income loss;

T = expected (average)severity of net economic loss (present value), when it occurs; and

P = expected RI premium.

A= The threshold above which a contract is considered to have provisionally passed the " significant risk transfer test " and A is set at 1 % which has become an international best practice standard

In this way, the 10-10 rule corresponds to a 1% ERD rule. A 1% ERD rule will admit all contracts that pass the 10-10 rule.

Reinsurers believes that an active encouragement of Alternative Risk transfer (structured solutions) which meet the Risk Transfer Test will allow bespoke and world class solutions to be made available to the Indian Insurance Industry and will foster its healthy growth.

ANNEXURE 7

REPORTING FORMATS :

Suggested formats (In detail) are being submitted as a separate compilation booklet along with this report.

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