

IRDA (Licensing of Bancassurance Agents) Regulations, 2011

In exercise of the powers conferred by sub-section (2) of section 114A of the Insurance Act, 1938 read with sections 14 and 26 of the Insurance Regulatory and Development Authority Act, 1999, the Authority, in consultation with the Insurance Advisory Committee, hereby makes the following regulations, namely

Short title and commencement

1. (1) These regulations may be called the Insurance Regulatory and Development Authority (Licensing of Bancassurance Agents) Regulations, 2011
- (2) They shall come into force on the date of their publication in the Official Gazette. However, the banks licensed under corporate agency under IRDA (Licensing of Corporate Agents) Regulations, 2002 shall govern under these regulations on expiry of the license or on termination of the existing license.

Definitions

2. In these regulations, unless the context otherwise requires, -
 - (i) **“Act”** means the Insurance Act, 1938 (4 of 1938)
 - (ii) **“Authority”** means the Insurance Regulatory and Development Authority established under the provisions of section 3 of the Insurance Regulatory and Development Authority Act, 1999
 - (iii) **“Applicant”** means any institution including Non-Banking Finance Companies licensed under Banking Regulations Act, 1949 to accept deposit from public.
 - (iv) **“Bancassurance Agent”** means an applicant specified in clause (iii) and licensed to act as such under these regulations:
 - (v) **“Certification”** means the process by which a Specified Person or Chief Bancassurance Executive of the Bancassurance Agent, who has passed the required examination, is issued a Certificate entitling him to solicit and procure insurance business on behalf of the Bancassurance Agent
 - (vi) **“Chief Bancassurance Executive”** means an officer of the bancassurance agent so nominated by its Board of Director, who possesses the requisite qualification who have passed such an examination as required under clauses (e) and (f) of Section 42 of the Act.

- (vii) **“Deficiency in Service”** means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance by the Bancassurance agent which is required to be maintained under any law for the time being in enforce.
- (viii) **“Market Consistent Embedded Value” (MCEV)** means the Market Consistent Embedded Value calculated as per the method specified by Institute of Actuaries of India.
- (ix) **“Period of Amortization”** means the period during which insurer is allowed to amortize the difference of the Market Consistent Embedded Value and purchase value of the equity of the insurer.
- (x) **“Specified Person”** means one or more of its officers or other employees so designated by Bancassurance Agent who has passed the required examination, certification and who is responsible for soliciting and procuring insurance business on behalf of the Bancassurance Agent.
- (xi) **“Zone”** means any one of the three zones as under
- a. **Zone A** – includes the following states and Union Territories
 - i. Kerala
 - ii. Gujarat
 - iii. Andhra Pradesh excluding Hyderabad
 - iv. Tamil Nadu excluding Chennai
 - v. West Bengal excluding Kolkata
 - vi. Karnataka excluding Bangalore
 - vii. Maharashtra excluding Mumbai
 - viii. Chandigarh
 - ix. Hyderabad
 - x. Bangalore
 - xi. Chennai
 - xii. Delhi
 - xiii. Mumbai
 - b. **Zone B**- includes the following States and Union Territories
 - i. Rajasthan
 - ii. Assam

- iii. Jharkhand
- iv. Haryana excluding Chandigarh
- v. Orissa
- vi. Bihar
- vii. Punjab excluding Chandigarh
- viii. Madhya Pradesh
- ix. Uttar Pradesh

c. Zone C- includes the following States and Union Territories

- i. Lakshadweep
- ii. Dadra & Nagrahaveli
- iii. Daman & Diu
- iv. Andaman & Nicobar
- v. Mizoram
- vi. Arunachal Pradesh
- vii. Sikkim
- viii. Nagaland
- ix. Meghalaya
- x. Manipur
- xi. Punducherry
- xii. Tripura
- xiii. Goa
- xiv. Jammu & Kashmir
- xv. Himachal Pradesh
- xvi. Uttrakhand
- xvii. Chattisgarh

(2) All words and expression used herein and not defined but defined in the Act, or in the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), or in any of the regulations made by the Authority shall have the meanings respectively assigned to them in those Acts or regulations

Issue or renewal of license

- 3.** (1) An applicant desiring to obtain a license to act as a bancassurance agent shall make an application to the Authority in Form IRDA-BA-A_1 along with the fee of Rs.500/- (Rs. Five Hundred Only) to the Authority .
- (2) While considering the applicant, Authority shall take into account, all matters affecting distribution of the insurance products by the applicant or its promoters/

shareholders. In particular and without prejudice to the generality of the foregoing, the Authority shall consider the following matters for grant of license to the applicant namely

- (a) the record of performance of applicant company in the field of business the applicant is engaged in;
 - (b) the record of performance of the directors and person in management of the applicant, more particularly of the Chief Bancassurance Insurance Executive of the applicant company and on being satisfied that the Chief Bancassurance Executive of the applicant possess the required qualification, experience is not disqualified otherwise.
 - (c) The planned infrastructure of the applicant company, including branches in rural areas, to effectively carry out the distribution business of insurance products.
- (3) the Authority, after making such inquiry as it deems fit and on being satisfied that
- (a) the applicant is eligible and in its opinion is likely to meet effectively its obligation imposed under the Act,
 - (b) the applicant has not been penalized by RBI/ SEBI or by any other regulatory agency for serious fraud etc. during last three years.
 - (c) the interests of the general public will be served if license is granted to the applicant in respect of the class of insurance business proposed to be distributed by the applicant

may register the applicant as a Bancassurance agent and grant him a certificate in form IRDA/BA2

Provided that a license issued in accordance with this regulation shall entitle the applicant to act as Bancassurance Agent for such number of life, non-life, health and specialized insurers as permitted for each Zone.

- (4) The license so granted will be valid for a period of 3 years. The same may be renewed for further period of 3 years.

Specified Person

- (5) An individual desiring to become a Specified Person of a Bancassurance Agent shall apply through the Bancassurance Agent in Form IRDA-BD-A-2 to the insurer. No other person except specified person shall solicit or procure business on behalf of bancassurance agent.

Minimum one specified person shall supervise not more than one branch except that Provided that till completion of the five years from the date of notification of these regulation,

Till completion of the first five years from the date of license, minimum one specified person shall supervise not more than three branches in Zone B and Minimum one specified person shall supervise not more than five branches in Zone C.

Provided that in Case of Zone C, minimum one specified person shall supervise not more than two branches in Zone C for next two years.

The detail of which shall be filed with the designated person.

- (6) The designated person of the insurer may, on receipt of such application along with IRDA/BA2 and evidence of payment of fees to the Authority, **grant or renew certificate**, as the case may be.

Ceiling on number of tie ups on Bancassurance Agent :

4. No bancassurance Agent shall tie up with more than one life, one non-life and one standalone health insurance company in any of the states in addition to one each specialised Insurance companies.

Further Provided that in case the agreement of general insurer/s do not have any health product to distribute, the Bancassurance Agent may tie up with one more general insurance company carrying on exclusively business of health insurance.

5. Ceiling on number of tie up on Insurance Company

No insurers other than the specialized insurer shall tie up with any bancassurance agent in more than nine states / Union Territories in Zone A and six states / Union Territories in Zone B.

6. Qualifications

- (1) The applicant shall ensure that Memorandum of Association or any other document evidencing the constitution of the entity shall contain as one of its main objects soliciting or procuring insurance business as a Bancassurance Agent.
- (2) The Chief Bancassurance Executive shall possess the minimum qualification
- i. an Associate/Fellow of the Insurance Institute of India, Mumbai;

- ii. an Associate/Fellow of the Institute of Chartered Accountants of India, New Delhi;
- iii. an Associate/Fellow of the Institute of Costs and Works Accountants of India, Calcutta;
- iv. an Associate/Fellow of the Institute of Company Secretaries of India, New Delhi;
- v. an Associate/Fellow of the Actuarial Society of India, Mumbai;
- vi. a Master of Business Administration of any Institution/ University recognised by any State Government or the Central Government;
- vii. possessing Certified Associateship of Indian Institute of Bankers (CAIIB);
- viii. possessing any professional qualification in marketing from any institution / University recognized by any State Government or the Central Government
- ix. Any other qualification as may be recognized by the Authority.

(3) A specified person shall possess the minimum qualifications of a pass in graduation or equivalent examination conducted by any recognised University /Institution.

(4) Every chief bancassurance Executive and each of the specified persons shall also not suffer from any of the disqualifications specified under Section 42D of the Act.

7. Examination

(1) The Chief Bancassurance Executive of the applicant or a specified person shall have passed the pre-recruitment examination in life or general insurance business, or both, as the case may be, conducted by the Insurance Institute of India, Mumbai, or any other examining body duly recognised by the Authority.

(2) The examining body shall issue a certificate to every successful specified person, which shall make him eligible to procure insurance business on behalf of the bancassurance agent.

8. Fee Payable

(1) The fee payable to the Authority for issue or renewal of license to act as a bancassurance Agent shall be rupees Two Hundred Fifty only.

(2) Every specified person of the Bancassurance Agent shall, apply through the Bancassurance Agent to the designated person of the insurer to obtain the certificate, accompanied by a fees of rupees five hundred remitted to the Authority.

9. Use of the Logo / Identity of the Bank

All the products of the insurers can be distributed by the bancassurance agent. However, Authority after notification of these regulations may permit insurers to carry the name and logo of the bancassurance agent for the products exclusively distributed through that bancassurance agent.

10. Remuneration

- (1) No Bancassurance Agent shall be paid or contracted to be paid by way of commission an amount exceeding the 85% of the limit specified in Section 40A of the Insurance Act, 1938.

- (2) In case the products filed and cleared by the Authority before notification of these regulations in terms of Regulation 9, the maximum remuneration to be to the Bancassurance Agent shall not exceed the remuneration specified under F&U Guidelines at the time of filing of the product.

Provided that an amount not exceeding **2.50% of the premium** may also be paid for sharing of the infrastructure, cost of training and incentive to specified person to the specified persons. The said payment will be counted for computation of the management expense under Section 40C of the Insurance Act, 1938

Provided that no bancassurance Agent / Chief Bancassurance Agent / Specified person shall pay or allow the payment of any fee, commission, incentive by any other name whatsoever for the purpose of sale, introduction, lead generation, referring or finding to any person or entity.

11. Sale of Equity Shares of Insurance Company

- (1) Any sale of equity share of an insurance company having a tie up or proposing to have tie up with the Bancassurance Agent either by transfer of the existing shares or by issuance of fresh share shall be with prior approval of the Authority.

- (2) In case of any transfer which is below the Market Consistent Embedded Value of the equity calculated as per the Institute of Actuaries of India AI standard, the difference of MCEV and purchase price shall be amortized over a period of five years from the date of sale and such amortized amount shall be part of the remuneration to the Bancassurance Agent.

12. Maintenance of Books of Accounts, Records, Etc

- (1) Every Bancassurance Agent shall file the statement of remuneration as per the format IRDA-BA-3 certified by the Chief Bancassurance Executive, Managing Director and Chief Financial officer and audited by the Statutory Auditor within 6months from the end of the financial year.
- (2) All the books of Accounts, statement, document etc. shall be maintained at the Head Office of the Bancassurance Agent or such other branch office as may be designated by him and notified to the Authority, and shall be available on all working days to such officers of the Authority, authorized in this behalf by it for an inspection.
- (3) All the books and documents, statement, contract notes, need analysis etc., referred to in this regulation and maintained by the Bancassurance Agent shall be retained for a period of at least ten years from the end of the year to which they relate.

13. Submission of half yearly results

Every Bancassurance Agent shall before end of 15th of November of each year furnish to the Authority a half yearly unaudited statements along with a declaration confirming the fulfillment of the requirement of the Specified Person in each and every branch.

14. Authority's right to inspect

- (1) The Authority may appoint one or more of its officers as an "investigating officer" to undertake inspection of premises of the Bancassurance Agent to ascertain and see whether the business is carried on as per the Act, Regulations and the instruction issued by the Authority from time to time, and also to inspect the books of accounts, records and documents of the bancassurance Agent for any of the purposes specified in sub-regulation (2).
- (2) The purposes referred to in sub-regulation (1) may include :-
 - (i) To ensure that the books of accounts are being maintained in the manner required;
 - (ii) To ensure that the provisions of the Act, rules, regulations are being complied with
 - (iii) To investigate the complaints received from any insured, any insurers, other stakeholders or any other person on any matter having a bearing on the activities of the Bancassurance Agent; and
 - (iv) To investigate the affairs to the Bancassurance Agent *suomotu* in the interest of proper development of insurance business or in policyholder's interest.

Provided that before undertaking an inspection, Authority shall give a notice of seven days to the Bancassurance Agent.

15. Code of Conduct

(1) Every Bancassurance Agent shall abide by the code of conduct specified below

Every Bancassurance Agent shall

- (i) be responsible for all acts of omission and commission of its Chief Bancassurance Executive and every specified person;
- (ii) ensure that the reporting level of the Chief Bancassurance Executive is not below the Managing Director or equivalent of the company.
- (iii) Ensure that each branch of the Bancassurance Agent has a specified person whose particulars have been filed with designated person.
- (iv) Ensure that the Chief Bancassurance Executive and all specified persons are properly trained, skilled and knowledgeable in the insurance products they market.
- (v) Ensure that the Chief Bancassurance Executive and the specified person do not make to the prospect any misrepresentation on the policy benefits and returns available under the policy;
- (vi) Ensure that no prospect is forced to buy an insurance product
- (vii) Give adequate pre-sale and post sales advice to the insured in respect o the insurance product.
- (viii) Ensure that every sale of the insurance products is supported by the need analysis format duly signed by the insured.
- (ix) Extend all possible help and co-operation to an insured in completion of all formalities and documentation in the event of a claim;
- (x) Give due publicity to the fact that the Bancassurance Agent does not underwrite the risk or act as an insurer;
- (xi) Enter into service level agreement with the insurer in which the duties and responsibilities of both are defined.

(2) Every Bancassurance Agent or a Chief Bancassurance Executive or a specified person shall

- (a) identify himself and the insurance company of whom he is a representative;
- (b) disclose his licence/ certificate to the prospect on demand;
- (c) disseminate the requisite information in respect of insurance products offered for sale by his insurer and take into account the needs of the prospect while recommending a specific insurance plan;

- (d) disclose the scales of commission in respect of the insurance product offered for sale;
 - (e) indicate the premium to be charged by the insurer for the insurance product offered for sale;
 - (f) explain to the prospect the nature of information required in the proposal form by the insurer, and also the importance of disclosure of material information in the purchase of an insurance contract;
 - (g) bring to the notice of the insurer any adverse habits or income inconsistency of the prospect, in the form of a report (called “Insurance Agent’s Confidential Report”) along with every proposal submitted to the insurer, and any material fact that may adversely affect the underwriting decision of the insurer as regards acceptance of the proposal, by making all reasonable enquiries about the prospect;
 - (h) inform promptly the prospect about the acceptance or rejection of the proposal by the insurer;
 - (i) obtain the requisite documents at the time of filing the proposal form with the insurer; and other documents subsequently asked for by the insurer for completion of the proposal;
 - (j) render necessary assistance to the policyholders or claimants or beneficiaries in complying with the requirements for settlement of claims by the insurer;
 - (k) advise every individual policyholder to effect nomination or assignment or change of address or exercise of options, as the case may be, and offer necessary assistance in this behalf, wherever necessary;
- (i) No Bancassurance agent/ Chief Bancassurance Executive/ specified person shall,—
- (a) solicit or procure insurance business without holding a valid licence/ certificate;
 - (b) induce the prospect to omit any material information in the proposal form;
 - (c) induce the prospect to submit wrong information in the proposal form or documents submitted to the insurer for acceptance of the proposal;
 - (d) behave in a discourteous manner with the prospect;
 - (e) interfere with any proposal introduced by any other specified person or any insurance intermediary;

- (f) offer different rates, advantages, terms and conditions other than those offered by his insurer;
 - (g) demand or receive a share of proceeds from the beneficiary under an insurance contract;
 - (h) force a policyholder to terminate the existing policy and to effect a new proposal from him within three years from the date of such termination;
 - (i) apply for fresh licence to act as an insurance agent, if his licence was earlier cancelled by the Authority, and a period of five years has not elapsed from the date of such cancellation;
 - (j) become or remain a director of any insurance company;
 - (k) engage, encourage, enter into a contract with or have any sort of arrangement with any person other than a specified person, to refer, solicit, generate lead, advise, introduce, find or provide contact details of prospective policyholders in furtherance of the distribution of the insurance product;
- (ii) Every Bancassurance agent shall, with a view to conserve the insurance business already procured through him, make every attempt to ensure remittance of the premiums by the policyholders within the stipulated time, by giving notice to the policyholder orally and in writing.
- (iii) No Chief Bancassurance Executive or a specified person shall hold similar position with another Bancassurance agent or corporate agent.

16. Renewal of License

- (1) Every license granted by the Authority to a Bancassurance agent or any renewal thereof, in terms of these regulations, shall remain in force for three years.
- (2) A license granted to a Bancassurance agent may be renewed for a further period of three years on submission of the application form along-with a renewal fee of rupees two hundred and fifty, at least thirty days prior to the date of expiry of the license.
- (3) The additional fees payable to the Authority, under the circumstances mentioned in sub-section (3) of section 42 of the Act, shall be rupees one hundred.
- (4) The Authority may, if it is satisfied that undue hardship would be caused otherwise, accept any application after the license ceased to remain in force, on the payment by the applicant of a payment of rupees seven hundred and fifty as additional fee.

- (5) Every certificate granted to the specified person shall remain in force for a period of three years which can be renewed for a further period of three years on submission of an application form accompanied by fees of rupees one hundred, provided that the license of the Bancassurance agent continues to be valid. The application form along-with the fees shall be submitted at least thirty days prior to the date of expiry.
- (6) The specified person on his ceasing to be an employee of the Bancassurance agent shall surrender his certificate to the designated person. If he desires to become an individual insurance agent then he shall follow the procedure as laid down in Insurance Regulatory and Development Authority's (Licensing of Insurance Agents) Regulations, 2000.
- (7) A specified person shall also be governed by the provisions of sub-regulation (3) and (4) stated above.

17. Suspense and Cancellation of License/ certificate

- (1) Where a Bancassurance Agent or Chief Bancassurance Executive or a specified person which has been granted a license or a certificate, as the case may be, under these regulations,
 - (a) Suffers at any time during the period of the license or certificate, as the case may be, from any of the disqualifications specified in sub-section (4) of section 42 of the Act
 - (b) Fails to comply with any of the conditions subject to which the license or a certificate, as the case may be, has been granted;
 - (c) Contravenes of any of the provisions of Act, the Insurance Regulatory and Development Act, 1999 (41 of 1999), the regulations framed thereunder and such other guidelines or directions issued by the Authority from time to time; or;
 - (d) Fails to furnish any information relating to his activities as an bancassuracne agent as required by the Authority;
 - (e) Furnishes wrong or false information, or conceals or fails to disclose material facts in the application submitted for obtaining a license
 - (f) Does not submit periodical returns as required by the Authority
 - (g) Fails to resolve the complaints of the policyholders or fails to give a satisfactory reply to the Authority in this behalf.
 - (h) Does not co-operate with any inspection conducted by the Authority
 - (i) Acts in a manner against the interest of the policyholder or against public interest;
 - (j) Failure to comply with the regulation of sub-regulation 13

Nothing contained in the above said regulation prevent the Authority to initiate penal action keeping in mind the extent of violation and level of violation as per the provisions of the Insurance Act, 1938

Notwithstanding anything contained in the above said regulation, Authority may also share the findings of the inspection with Reserve Bank of India

The authority may issue a notice to the bancassurance agent or the Chief Bancassurance Executive or the specified person requiring him to show cause within 21days from the date of receipt of the notice, why the license granted to the Bancassurance agent or the certificate to the Chief Bancassurance Executive or the specified person, as the case may be, should not be suspended or cancelled or any other action as considered appropriate by the Authority should not be initiated.

Provided that license of bancassurance agent shall not be cancelled unless a show cause notice and an opportunity of personal hearing has been granted to him.

(2) During the proceedings, the Bancassurance Agent or the Chief Bancassurance Executive or the specified person shall produce any record relating to the Insurance business in such form and within such time as may be ordered by the Authority

18. Issue of duplicate license : The Authority may on payment of a fee of rupees fifty issue a duplicate licence to replace a licence, which is lost, destroyed, or mutilated.

19. Professional indemnity insurance — (1) every bancassurance agent shall take out and maintain and continue to maintain a professional indemnity insurance cover throughout the validity of the period of the license granted to him by the Authority.

Provided that such Professional indemnity Insurance shall not be taken from the insurer who has a direct or indirect relationship with the bancassurance agent or to the group to which the bancassurance agent relates to.

Provided further that the Authority shall in suitable cases allow a newly licensed bancassurance agent to produce such a guarantee within six months from the date of issue of original licence.

(2) The insurance cover must indemnify an bancassurance agent against

- (a) any error or omission or negligence on his part or on the part of his employees, specified person or Chief Bancassurance Executive ;
 - (b) any loss of money or other property for which the bancassurance agent is legally liable in consequence of any financial or fraudulent act or omission;
 - (c) any loss of documents and costs and expenses incurred in replacing or restoring such documents;
 - (d) Dishonest or fraudulent acts or omissions by specified person and Chief Bancassurance Executive or former employees.
- (3) The indemnity cover —
- (a) shall be on a yearly basis for the entire period of licence;
 - (b) shall not contain any terms to the effect that payments of claims depend upon the bancassurance agent having first met the liability;
 - (c) shall indemnify in respect of all claims made during the period of the insurance regardless of the time at which the event giving rise to the claim may have occurred.

Provided that indemnity insurance cover not fully conforming to the above requirements shall be permitted by the Authority in special cases for reasons to be recorded by it in writing.

- (4) Limit of indemnity for any one claim and in the aggregate for the year in the case of bancassurance agent shall not be less than three times of remuneration received at the end of every financial year.
- (5) The un-insured excess in respect of each claim shall not exceed five percent of the capital employed by the insurance broker in the business.
- (6) The insurance policy shall be obtained from any registered insurer in India who has agreed to —
 - (a) provide the bancassurance agent with an annual certificate containing the name and address, including the license number of the bancassurance agent, the policy number, the limit of indemnity, the excess and the name of the insurer as evidence that the cover meets the requirements of the Authority;
 - (b) send a duplicate certificate to the Authority at the time the certificate is issued to the bancassurance insurance broker ; and

(c) Inform the insurer immediately of any case of avoidance, non-renewal or cancellation of cover mid-term.

(7) Every bancassurance shall—

(a) inform immediately the Authority should any cover be cancelled or voided or if any policy is not renewed;

(b) inform immediately the insurer in writing of any claim made by or against it;

(c) advise immediately the insurer of all circumstances or occurrences that may give rise to a claim under the policy ; and

(d) advise the Authority as soon as an insurer has notified that it intends to decline indemnity in respect of a claim under the policy.

20. Compliance with KYC and enhanced due diligence

The Bancassurance Agent shall carry out due diligence and Know Your Customer (KYC) of the insured as prescribed by RBI. Insurers may rely upon the due diligence and Know Your Customer carried out by the bancassurance agent.

21. Ombudsman Jurisdiction

1) The Bancassurance Agent shall come within the ambit of Banking Ombudsman Scheme 1995 for the purposes of redressal of grievance against deficiency of services.

2) Subject to the Banking Ombudsman Scheme, 1995, Regulation 2 of the Banking Ombudsman Scheme, 1995 shall also include complaints relating to services of a bancassurance agent.

3) Any person aggrieved by the service of the bancassurance agent shall file complaint under regulation 16 of the Banking Ombudsman Scheme for redressal to the Banking Ombudsman within the time specified in the scheme.

4) The insurer and bancassurance agent shall implement the order of the Ombudsman as provided in scheme.

22. Miscellaneous.—

Every Bancassurance Agent shall maintain a register which shall contain the name, address, telephone no, photograph, date of commencement of employment, date of leaving the service, if any, salary paid to the specified person.

23. Power to Remove difficulties

In order to remove any difficulties in respect of the application or interpretation of any of the provisions of these regulations, the Authority may issue appropriate clarifications or guidelines, as and when required.