

**IRDAI (Registration, Capital Structure, Transfer of Shares and Amalgamation of Indian Insurance Companies) Regulations, 2024**

**F. No. IRDAI/Reg/ / /2024:** In exercise of the powers conferred by Section 3, section 3A, section 6A, section 35, sub-section (4A) of section 37A and 114A of the Insurance Act, 1938 and section 14 and section 26 of the Insurance Regulatory and Development Authority Act 1999 (41 of 1999), the Authority, in consultation with the Insurance Advisory Committee, hereby makes the following Regulations, namely: -

**1. Objective, Short Title, Commencement and Applicability**

- (1) **Objective:** To promote growth of insurance sector by simplifying the process of registration of insurer, transfer of shareholding, other forms of capital, amalgamation of insurers, listing of shares of insurers on stock exchange and to promote ease of doing business.
- (2) **Short Title:** These Regulations may be called the Insurance Regulatory and Development Authority of India (Registration, Capital Structure, Transfer of Shares and Amalgamation of Indian Insurance Companies) Regulations, 2024.
- (3) **Commencement:** These Regulations shall come into force on the date of their publication in the Official Gazette and shall be reviewed once in every three years from the date of notification, unless the review or repeal or amendment is warranted earlier.

**2. Definitions**

- (1) In these Regulations, unless the context otherwise requires, -
  - (a) **“Act”** means the Insurance Act, 1938 (4 of 1938);
  - (b) **“Applicant”** means a company as defined in sub-section (20) of section 2 of the Companies Act, 2013 (18 of 2013) or a statutory body established by an Act of Parliament or co-operative society to carry on insurance business;
  - (c) **“Authority”** means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);
  - (d) **“Competent Authority”** means Chairperson or Whole-Time Member or Committee of the Whole-Time Members or Officer(s) of the Authority, as may be determined by the Chairperson.
  - (e) **“Encumbrance”** shall include -
    - i. Pledge, lien, charge by whatever name called;
    - ii. Any covenant, transaction, condition or arrangement in the nature of encumbrance, by whatever name called.
  - (f) **“Foreign Investors”** shall have the same meaning assigned to it in sub clause (g) of clause (1) of rule 2 of Indian Insurance Companies (Foreign Investment) Rules, 2015.
  - (g) **“Foreign Promoter”** means the “foreign investors” which meet one or more of the following conditions:
    - i. who has been named as such in a prospectus or is identified by the company in the annual return referred to in section 92 of the Companies Act, 2013;

- ii. who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or
- iii. in accordance with whose advice, directions or instructions, the Board of Directors of the company is accustomed to act:

**Provided that** nothing in sub-clause (iii) shall apply to a person who is acting merely in a professional capacity.

**(h) “Indian Investors”** means “Investors” other than foreign investors.

**(i) “Indian promoter”** means -

- i. a company as defined in the Companies Act, 2013 (18 of 2013), which is not a subsidiary as defined in clause (87) of section 2 of that Act:

**Provided that** a subsidiary company may be allowed to be a promoter of the applicant if it meets the following conditions:

- a. The said company is listed on the stock exchange(s) in India;
- b. The said company has its own source of funds, independent from its holding company;
- c. The said company has a net worth of at least Rs.500 crore as at the end of the financial year preceding the date of application; and
- d. The holding company of the said company is not subsidiary of any other company.

- ii. a banking company as defined in clause (c) of section 5 of the Banking Regulations Act, 1949 but does not include a foreign bank or branch thereof functioning in India.
- iii. a Core Investment Company (CIC) under Core Investment Companies (Reserve Bank) Directions, 2016 as amended from time to time.
- iv. a public financial institution as defined in clause (72) of section 2 of the Companies Act, 2013 (18 of 2013).
- v. a co-operative society registered under any relevant law for the time being in force.
- vi. a limited liability partnership formed under the Limited Liability Partnership Act, 2008 (6 of 2009).
- vii. a Non-Operative Financial Holding Company (NOFHC) registered with Reserve Bank of India.
- viii. Any other person or entity as may be allowed by the Authority from time to time;

which meets one or more of the conditions in clause (69) of Section 2 of Companies Act, 2013.

**(j) “Investors”** mean a shareholder of an Insurer who is not a Promoter of the Insurer.

**(k) “Key Management Person”** shall include members of the core management team of an insurer or applicant including all whole-time directors or Managing Directors or Chief Executive Officer and the functional heads one level below the Managing Director or Chief Executive Officer, including the Chief Financial Officer, Appointed Actuary, Chief Investment Officer, Chief Risk Officer, Chief Compliance Officer and the Company Secretary.

**(l) “Other Forms of Capital”** (OFC) means the following instruments issued by an Insurer in the manner specified herein: (a) Preference Share capital; or (b) Subordinated Debt.

- (m) **“Preference Share Capital”** means the preference share capital as defined in explanation (ii) to section 43 of the Companies Act, 2013
  - (n) **“Preliminary Expenses”** means expenses relating to the formation of an applicant. These include legal, accounting and share issue expenses incurred for the formation of the applicant and expenses incurred prior to grant of Certificate of Registration.
  - (o) **“Private Equity Fund” or “PE Fund”** includes -
    - i. an Alternative Investment Fund or its manager registered with SEBI (Alternative Investment Fund) Regulations, 2012; and/or
    - ii. a Fund or its manager registered for the purpose of investment, with International Financial Services Centres Authority; and/or
    - iii. Funds, formed specifically for the purpose of investment, which are registered or whose manager is registered with appropriate financial sector regulator in any FATF compliant jurisdiction.
  - (p) **“Promoter”** means Indian Promoter or Foreign Promoter or both.
  - (q) **“Special Purpose Vehicle” or “SPV”** means a company registered under the provisions of Companies Act, 2013 or a Limited Liability Partnership formed under the Limited Liability Partnership Act, 2008 for the purpose of making investment in an insurer.
  - (r) **“Subordinated Debt”** means: (a) “Debenture” as defined in Section 2(30) of the Companies Act, 2013; and (b) any other debt instrument as may be permitted by the Authority.
  - (s) **“Transfer of Shares”** includes transfer of shares from existing shareholder(s) to another person and includes transmission and fresh issuance of the equity shares which leads to change in the shareholding pattern of an insurance company.
- (2) All words and expressions used herein and not defined in these Regulations but defined in the Insurance Act, 1938 (4 of 1938), or in the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) or Rules or Regulations made thereunder shall have the same meanings respectively assigned to them in those Acts, Rules or Regulations.

## **Chapter 1: Registration of Indian Insurance Company**

### **3. Permissible Classes of Insurance Business**

An applicant may make requisition for registration application for any one of the following class of business of insurance:

- (i) Life insurance business.
- (ii) General insurance business.
- (iii) Health insurance business exclusively.
- (iv) Reinsurance business exclusively.

**4. Disqualifications for Applicant:** An applicant shall not be eligible to apply for the requisition in the following circumstances:

- i. Where the requisition for registration application or the application for registration has been rejected at any time during two financial years preceding the date of application; or
- ii. Where Certificate of Registration has been cancelled by the Authority at any time during two financial years preceding the date of application; or
- iii. Where the name of the applicant does not contain the words 'insurance' or 'assurance' or 'reinsurance'.

**5. Procedure for registration**

**(1) No-objection Certificate**

- i. No company or co-operative society shall be incorporated in India with a name that contains words 'insurance' or 'assurance' or 'reinsurance' without obtaining a No-objection Certificate from the Competent Authority.
- ii. Upon request by the applicant to issue the No-objection Certificate in the specified format, the applicant may be issued the No-objection Certificate.
- iii. The No-objection Certificate issued to the applicant shall be valid for a period of 6 months within which the applicant shall file application for issuance of requisition for registration application i.e. Form IRDAI/R1:

**Provided that** the validity of the No-objection Certificate may be extended by a further period of three months for the reasons to be recorded in writing.

**(2) R1 Approval**

- i. The Competent Authority, upon receipt of application for issuance of Form IRDAI/R1 and after examining the matters considered relevant to its satisfaction, shall issue the Form IRDAI/R1 which shall be valid for a period of three months within which the applicant shall submit the duly filled Form IRDAI/R1 to the Authority for its consideration:

**Provided that** the Competent Authority, by recording the reasons in writing, may reject the application for issuance of Form IRDAI/R1:

**Provided further that** the Competent Authority, by recording the reasons in writing, may extend the validity of the IRDAI/R1 Form by another three months.

- ii. Every application in the Form IRDAI/R1 as per the specified format shall be accompanied by
  - a. The certificate of incorporation issued by Registrar of Companies in case of a company or Registration certificate in case of co-operative society;
  - b. a certified copy of the Memorandum of Association and Articles of Association, where the applicant is a company and incorporated under the Companies Act, 2013 (18 of 2013); or a certified copy of the legislation of Parliament setting up the statutory body to carry on insurance business;
  - c. In case of co-operative society, certified copy of bye-laws;
  - d. the name, address and the occupation of the directors of the promoter and the

- applicant;
  - e. a certified copy of the annual report of promoter(s) for up to the last five years, as applicable;
  - f. a certified copy of the shareholders' agreement, as applicable, between promoter(s) and investor(s) of the applicant;
  - g. Projection of business for five years duly approved by the Board of Directors of the applicant along with a certificate from a fellow member of Institute of Actuaries of India that the projections are reasonable and workable;
  - h. Proof in support of payment of non-refundable fee of rupees five lakh along with applicable taxes towards processing the form IRDAI/R1 through any of the recognised modes of electronic fund transfer.
- iii. The Competent Authority shall take into account such matters as may be considered relevant while processing the Form IRDAI/R1, including but not limited to the following:
- a. the general track record of conduct and performance of each of the promoters and investors in the fields of business or profession they are engaged in;
  - b. the record of conduct and performance of the directors and persons in management of the promoters, investors and the applicant;
  - c. the financial strength of the promoters, investors and the applicant;
  - d. the capital structure of the promoters, investors and the applicant;
  - e. the sources of meeting the capital requirements of the applicant;
  - f. shareholding pattern of the applicant and its promoter(s);
  - g. the ability of the applicant and its promoters to meet the obligation to provide life insurance or general insurance or health insurance to the persons residing in the rural sector, workers in the unorganised sector or informal sector or for economically vulnerable or backward classes of the society and other categories of persons specified by the Authority;
  - h. the ability to meet the obligation to underwrite insurance business in third party risks of motor vehicles as specified by the Authority;
  - i. the planned infrastructure of the applicant;
  - j. the proposed business expansion plan for five succeeding years, including establishment of place of business in rural areas, to effectively carry out the insurance business; and
  - k. other relevant matters for carrying out the provisions of the Act.
- iv. The Competent Authority, after examining the matters considered relevant and upon satisfaction, shall issue the "R1" Approval subject to the conditions as may be specified in the said approval letter. Along with the said approval letter, the applicant shall be issued the application for registration i.e. Form IRDAI/R2.
- v. The "R1" approval shall be valid for a period of three months from the date of the said approval within which the applicant shall submit duly filled Form IRDAI/R2 for consideration of the Authority:

**Provided that** the Competent Authority, by recording the reasons in writing, may extend the validity of the “R1” approval by a period of another three months.

**(3) R2 Approval**

- i. Every application in the Form IRDAI/R2 as per the specified format shall be accompanied by
  - a. An affidavit by the applicant and its promoters that the paid-up share capital of the applicant, after deducting the preliminary expenses, shall be adequate to comply with the requirements of section 6 of the Act.
  - b. A statement indicating the shareholding pattern of the applicant as on the date of the application.
  - c. An affidavit by the managing director or chief executive officer or whole-time director of the applicant, the promoter(s) and investor(s) of the applicant certifying that the holding of foreign paid-up equity capital, referred to in sub-clause (b) of clause (7A) of Section 2 of the Act, is calculated in accordance with Indian Insurance Companies (Foreign Investment) Rules, 2015 read with these Regulation and does not exceed seventy four percent of the total paid-up capital of the applicant:

**Provided that** in case of the Indian promoter being a Limited Liability Partnership, such affidavit shall be signed by the Designated Partner:

**Provided further that** in case of applicant being a co-operative society, the affidavit shall certify that the holding of foreign capital, referred to in sub-clause (c) of clause (8A) of Section 2 of the Act, does not exceed twenty six percent of the total capital of the applicant.
  - d. In case the applicant has foreign investment, an affidavit by the managing director or chief executive officer or whole-time director of the applicant, the promoter(s) and investor(s) of the applicant certifying that the requirement of Indian Insurance Companies (Foreign Investment) Rules, 2015 shall be complied with.
  - e. In case the applicant has foreign investment exceeding forty nine percent, an affidavit by the managing director or chief executive officer or whole-time director and the promoters of the applicant certifying that the requirement of Indian Insurance Companies (Foreign Investment) Rules, 2015 shall be complied with.
  - f. A certified copy of the standard forms of the applicant and statements of the assured rates, advantages, terms and conditions to be offered in connection with insurance policies together with a certificate by a fellow member of Institute of Actuaries of India, in case of life insurance business, that such rates, advantages, terms and conditions are workable and sound.
  - g. A certified copy of the Memorandum of Understanding or Management Agreement or Shareholders Agreement or Voting Rights Agreements or any other agreements in whatsoever form entered into, between the promoters and the investors, if any, or amongst the promoters as a whole including copies of the support or comfort letters exchanged between the parties.

- h. A certificate from a practicing chartered accountant or a practicing company secretary certifying that all the requirements relating to registration fee, equity share capital, foreign investment limits and other requirements of laws for the time being in force including the Act have been complied with by the applicant.
- i. Proof in support of payment of non-refundable fee of rupees five lakh along with applicable taxes towards processing the Form IRDAI/R2 through any of the recognised modes of electronic fund transfer.
- ii. Upon completion of the processing of the Form IRDAI/R2 but prior to its approval by the Authority, the applicant shall submit:
  - a. Evidence of applicant having received equity share application money in accordance with section 6 of the Act and complied with conditions of R1 approval granted to the Applicant.
  - b. An affidavit by the applicant, promoters and the investors that upon grant of Certificate of Registration, the said share application money shall be converted into paid-up equity share capital of the applicant.
- iii. The Authority shall take into account the matters, as may be considered relevant while processing the form IRDAI/R2, including but not limited to the following:
  - a. the nature of insurance products proposed to be offered by the applicant;
  - b. the level of actuarial, accounting and other professional expertise within the management of the applicant;
  - c. the organization structure of the applicant to carry on all functions in respect of the insurance business;
  - d. the applicant is eligible, and in its opinion, is likely to meet effectively its obligations imposed under the Act;
  - e. the financial condition of the promoters, investors and the general character of the management of the applicant are sound;
  - f. the volume of business likely to be available to, and the capital structure and earning prospects of the applicant will be adequate;
  - g. the interests of the general public will be served if the certificate of registration is granted to the applicant in respect of the class of insurance business specified in the application; and
  - h. the applicant has complied with the provisions of sections 2C, 5 and 31A of the Act and has fulfilled all the requirements of these sections applicable to it.
  - i. all other relevant matters for carrying out the provisions of the Act.
- iv. The Authority, after examining the matters considered relevant and upon its satisfaction, shall, at its discretion, issue the "R2" Approval subject to the conditions as may be specified in the said approval letter.

**(4) Grant of Certificate of Registration:** After examining the matters considered relevant and upon its satisfaction, the applicant may be registered as an insurer for the class of business for which the applicant is found suitable and the Competent Authority may grant the applicant the

Certificate of Registration in Form IRDAI/R3 subject to the following conditions:

- i. The applicant and its promoter(s) and investor(s) shall be "Fit & Proper" on a continuous basis;
- ii. The promoter(s) and investor(s) shall comply with the specified lock in period, on their shareholding from the date of grant of Certificate of Registration;
- iii. The promoter(s) and investor(s) of the applicant shall not create any encumbrance on the equity shares of the applicant during the lock in period as may be specified;
- iv. The shareholders of the applicant shall not create any encumbrance on the equity shares of the insurer without the previous written approval of the Competent Authority in accordance with sub section (4) of section 6A of the Act;
- v. The applicant and promoter(s) shall be continuously bound by all the conditions and the investor(s) by such conditions as may be applicable subject to which the certificate in Form IRDAI/R3 has been issued;
- vi. The applicant shall furnish, within 15 days, evidence of applicant having allotted shares to its promoters and investors in accordance with section 6 of the Act and having complied with the conditions as per R1 approval and R2 approval.
- vii. Such other conditions as may be deemed fit at the time of grant of Certificate of Registration.

**(5) Commencement of Insurance Business:** An applicant which has been granted the Certificate of Registration under these Regulations shall commence insurance business within 12 months from the grant of Certificate of Registration. In case, the applicant fails to commence business within the stipulated time, the certificate of registration shall not be valid:

**Provided that** in case the applicant is not in a position to commence the insurance business within the specified period of 12 months, it can before the time limit expires, seek an extension from the Competent Authority through a written application specifying the reasons for not commencing business within the said specified period.

**Provided further that** no extension of time shall be granted by the Competent Authority beyond 24 months from the date of grant of Certificate of Registration.

**(6) Rejection of Application**

- i. The application for issuance of NOC may be rejected by the Competent Authority for reasons to be recorded in writing.
- ii. The R1 application may be rejected by the Competent Authority or the R2 application may be rejected by the Authority, after giving the applicant a reasonable opportunity of being heard, in following cases:
  - a. Where an application is not complete in all respects.
  - b. Where the applicant has not met the stipulations as laid down in these Regulations.
  - c. Where the requirements under the provisions of the Act or the Regulations framed thereunder are not met at any stage of the process.



- d. For any other reasons to be recorded in writing.
- iii. The order rejecting the application shall be communicated by the Competent Authority to the applicant, in writing, within a period of thirty days of such rejection stating therein the grounds on which the application has been rejected.
- iv. An applicant, whose application for registration has been rejected at any stage, shall not be entitled to a Certificate of Registration.

**(7) Withdrawal of Application:**

- i. The Applicant may seek withdrawal of the application at any stage. The Competent Authority, may approve the said withdrawal for the reasons to be recorded in writing.
- ii. Upon receipt of request as per sub-clause (i), the Competent Authority, for the reasons to be recorded in writing, may also reject the application filed by the Applicant. In such case, the disqualification as referred in sub-clause (i) of Regulation 4 shall be applicable.

**(8) Further Information and Clarification:** The Competent Authority may require the applicant to furnish such further information or clarifications as may be considered relevant for the examination of the application filed under these Regulations.

**(9) Conditions for Approval:**

- i. The Competent Authority may impose such conditions as may be deemed fit at the time of grant of No-objection Certificate and R1 approval, or the Certificate of Registration.
- ii. The Authority may impose such conditions as may be deemed fit at the time of grant of R2 approval

The applicant shall be bound by the conditions subject to which the approvals and/or certificate of registration has been issued.

## Chapter 2: Capital Structure

**6. Lock-in period:** The equity shares of the insurer shall be under lock-in as under:

S. No.	Particulars	Investment in the capacity of	Lock-in Period
1	Investment at the time of or before grant of R3 (i.e. Certificate of Registration)	Promoter or Investor	5 years from the date of grant of R3
2	Investment during 5 years post grant of R3: In case of change in shareholding pattern	Promoter or Investor	Earlier of the following: a) 5 years from the date of investment; or b) 8 years from the grant of R3.

S. No.	Particulars	Investment in the capacity of	Lock-in Period
3	Investment after 5 years but before 10 years post grant of R3: In case of change in shareholding pattern	Promoter	Earlier of the following: a) 3 years from the date of investment; or b) 12 years from the grant of R3
		Investor	Earlier of the following: a) 2 years from the date of investment; or b) 11 years from the grant of R3
4	Investment after 10 years post grant of R3: In case of change in shareholding pattern	Promoter	2 years from the date of investment
		Investor	1 year from the date of investment

**Provided that** the lock-in period shall not be applicable on the insurer(s) having its equity, share listed on the stock exchange(s) in India.

**Provided further that** the Competent Authority may relax the lock-in period in following circumstances:

- i. To enable the insurer to list its shares on the stock exchange(s) in India.
- ii. Under circumstances of distressed financial position or amalgamation of the insurer or the shareholder.

#### 7. Fit and Proper Criteria:

- (i) The Competent Authority shall assess the applicant, its promoters and investors on the fit and proper criteria on the basis of factors as may be considered relevant including but not limited to those specified in **Schedule 1** of these Regulations.
- (ii) The applicant, promoter and investors shall be fit and proper on a continuous basis i.e., even after the grant of Certificate of Registration.
- (iii) In case, the applicant, its promoters and/or investors are found to be not fit and proper at any stage, the Competent Authority may take such action as may be deemed appropriate.

#### 8. Special Purpose Vehicle: In case the applicant is promoted by a Special Purpose Vehicle (SPV), the following conditions shall be complied with:

- (i) The SPV has not issued and shall not issue convertible instruments of any kind;
- (ii) No stock options or sweat equity shares shall be issued to the employees or directors of SPV;
- (iii) Prior approval of the Competent Authority shall be obtained for transfer of shares of the SPV as per the limits specified under Section 6A of the Act in accordance with the manner specified in these Regulations;
- (iv) The investment limits, lock-in period and other requirements as per these Regulations shall also be applicable at the SPV level;
- (v) The criteria as may be specified with respect to clause (iii) of sub Regulation (2) of Regulation 5 shall also be applicable for the promoter and investor of the SPV;
- (vi) The equity shares to be issued by the SPV shall be valued at a price determined on the basis of valuation certificate issued by one SEBI Registered Category-I Merchant Banker. Such certificate

shall not have been issued prior to 30 days from the date of allotment of shares. The Merchant Bankers shall provide a proper report addressed to the Board of directors with justification for such valuation. A copy of the summary along with critical elements of the valuation report shall be sent to the shareholders along with the notice of the general meeting; and

- (vii) The paid-up capital of the SPV shall be equal to or more than the minimum paid up capital of the applicant required under section 6 of the Act.

**9. Operating Company:** In case the applicant is promoted by an operating company, the said promoter will be subject to necessary due-diligence including but not limited to the following:

- (i) The examination of the nature of operating company on the basis of substance over form;
- (ii) The track record of business operations, liquidity and profitability;
- (iii) Ability of the promoter to raise capital to meet the business and solvency requirements of the applicant, on an ongoing basis; and
- (iv) The shareholding pattern of the promoter.

**10. Minimum Paid-up Equity Capital:**

(a) The following shall be the minimum paid-up equity capital of the Applicant:

<b>Class of Insurance Business</b>	<b>Minimum Paid-up Equity Capital</b>
Life insurance business	Rs.100 crore
General insurance business	Rs.100 crore
Health insurance business exclusively	Rs.100 crore
Reinsurance business exclusively	Rs.200 crore

(b) The paid-up equity capital of the applicant and SPV, if any, after deducting the preliminary expenses, shall be adequate to comply with the requirements of section 6 of the Act.

(c) Till the time of commencement of insurance business:

- i. The equity shares of the Applicant and SPV shall be issued at its face value.
- ii. The infusion of funds in the Applicant and SPV, by its shareholders, shall be commensurate with the percentage of their equity stake in the Applicant and SPV.

Provided that the issuance of equity shares of insurer or SPV may be permitted to be issued at security premium, after the commencement of business, as per **Regulation 19**, in case the said issuance is justified to the Competent Authority.

**11. Investment as “Promoter”:** Investment in the capacity of promoter, directly or indirectly, in an insurer shall be in compliance with the following:

- i. The person shall not be a promoter of more than one life insurer, one general insurer, one health insurer and one reinsurer;

**Provided that** the Competent Authority may permit a person to be promoter of more than one insurer engaged in the same class of insurance business on a temporary basis if the same is part of the Scheme filed with the Authority under section 35 of the Act.

- ii. The person shall submit an undertaking to infuse capital in the insurer to meet its solvency and/or business requirements, if any, in future; and

- iii. The person is otherwise eligible to act as promoter of the insurer under these Regulations.

**12. Promoter(s) Holding:** The minimum shareholding of all the promoter(s) of the insurer shall be collectively maintained at above fifty (50) per cent of the paid up equity capital of the insurer:

**Provided that** promoter(s), collectively, may dilute their stake in the insurer below fifty (50) percent but not below twenty-six (26) percent of the paid up equity capital of the insurer in case the following conditions are complied with:

- a. The insurer has track record of solvency ratio above control level during 5 years immediately preceding the dilution of stake by promoter(s), and
- b. The shares of the insurer are listed on the stock exchange(s) in India.

**Provided further that** any shareholder shall be reclassified from promoter to investor, or vice versa, only after obtaining prior approval of the Competent Authority.

**13. Investment as “Investor”:** Investment in the capacity of investor, directly or indirectly, in an insurer shall be in compliance with the following:

- i. The investment by a single “investor” shall be less than twenty-five (25) percent of the paid-up equity share capital of insurer.
- ii. The investment by all the “investors” collectively shall be less than fifty (50) percent of the paid-up equity share capital of the insurer:

**Provided that** the said restriction shall not be applicable in case the equity shares of the insurer are listed on the stock exchange(s) in India.

**iii. Number of Insurers:**

- a. An investor may invest in any number of insurers provided that the investment does not exceed ten percent of the paid-up capital of the respective insurers.
- b. In case of investment of more than ten percent but less than twenty-five percent of paid-up capital of the insurers, investment by the investor shall be restricted to not more than two insurers in each class of insurance business.
- iv. In case of a one-time investment by an investor in an unlisted insurer, the investor shall make an upfront disclosure to this effect to the insurer. In such a case, the promoter(s) shall submit an undertaking to the Authority to infuse capital in the insurer to meet its solvency and/or business requirements, if any, in future.

**14. Nomination of Director**

- a. The investor shall not nominate any director on the Board of the insurer if the investment by the said investor in the insurer does not exceed ten percent of the paid up capital of the respective insurer.
- b. The investor may nominate not more than one director on the Board of the insurer if its investment exceeds 10 percent of the paid up capital of the respective insurer.
- c. No shareholder shall nominate any director on the board of any insurer if it has already nominated director on the board of any other insurer engaged in the same class of insurance business.

**15. Additional Stipulations for Investment by promoter and/or investor:** Investment shall also be in compliance with the following:

- i. Investment shall be made entirely out of own funds and not from borrowed funds.
- ii. In case any of the group entities or body corporate under the same management have also invested in the insurer, the limits under these Regulations shall apply at the group level.

For the purposes of this sub-clause, the expressions “group” and “same management” shall have the meanings respectively as provided under explanation to section 6A(4)(b)(iii) of the Act.

- iii. In case of investment by any person or entity in more than one insurer, directly or indirectly:
  - a. The person shall disclose the facts related to common holding to all the investee insurers;
  - b. The person along with the insurer shall put in place mechanism to avoid any conflict of interest that may arise due to the said common equity holding; and
  - c. The director nominated by the said person shall recuse from the discussions on any matter pertaining to other investee insurer(s), where the conflict of interest may arise.

**16. Criteria for Investment by the Private Equity Funds:**

- (i) The private equity funds may invest in the applicant in the capacity of a promoter or investor in the manner as specified under these Regulations.
- (ii) Investment in the insurer, including proposed limit in respect of future capital requirement of the insurer, shall be as per the PE Fund’s strategy reflected in its placement memorandum to its investors or its charter documents.
- (iii) A Private Equity Fund may invest in any insurer in the capacity of “promoter”, only if it meets the following criteria:
  - a. The manager of the PE Fund or its Parent Fund has completed 10 years of operation;
  - b. The funds raised by the PE Fund including its group entity(ies) is USD 500 million or more (or its equivalent in INR);
  - c. The investible funds available with the PE Fund is not less than USD 100 million ((or its equivalent in INR); and
  - d. The manager of the PE Fund has invested in the financial sector in India or the other jurisdictions.

**17. Manner of calculation of equity capital held by foreign promoter and foreign investor:**

For the purposes of the Act and these Regulations, the calculation of the holding of equity shares by one or more foreign investors and/or foreign promoters in the applicant company, shall be made as under and shall be aggregate of :-

- (i) the quantum of paid up equity share capital held by the foreign Investor(s) and foreign promoter(s) including foreign venture capital investor(s), in the applicant company; and

- (ii) the proportion of the paid up equity share capital held or controlled by such foreign investor(s) or foreign promoter(s) either by itself or through its subsidiary companies in the Indian promoter(s) or Indian Investor(s) as mentioned in sub-clause (i) of this Regulation.

**Provided that** clause (ii) shall not be applicable to an Indian promoter or Indian investor referred in sub-clause (ii) and (iv) of clause (i) of sub-Regulation (1) of Regulation 2.

**Provided further that** the clause (ii) shall not be applicable to any Indian promoter or Indian investor of a listed Indian insurer where such Indian promoter and/or Indian investor are regulated by Reserve Bank of India, Securities and Exchange Board of India and/or National Housing Bank.

- 18.** The Applicants as well as Insurers are required to adhere to requirements specified in this Chapter, as applicable.

### **Chapter 3: Transfer of Shares**

**19. Requirement of Prior-Approval for transfer of shares:**

No registration of transfer of shares or issue of equity capital of an insurance company shall be made without prior-approval of the Competent Authority in following cases:

- a. Where after the transfer, the paid-up equity capital holding of transferee in the shares of the insurance company is likely to exceed five percent of the paid-up equity capital of the insurance company and any subsequent transfers where the shareholding of the transferee exceeds further 5% of the paid-up equity capital of the insurer, in a financial year.
- b. the nominal value of shares intended to be transferred by an individual firm, group constituents of a group or body corporate under same management jointly or severally exceeds one percent of the paid-up equity capital of the insurance company and for any subsequent transfers by the transferor where the paid-up equity capital of the insurance company exceeds 1% of the paid-up equity capital, in a financial year.

**20. Manner of Obtaining Prior-Approval:**

- i. **Application in specified form:** The application seeking prior approval of the Competent Authority under the provisions of Section 6A of the Act shall be made in form(s) as specified by the Competent Authority, accompanied by the requisite documents and the details of the transferor and transferee as specified, providing complete details of the proposed transferee, its financial strength, sources of funds from which the proposed investment is intended to be made, and such other information as may be specified by the Competent Authority.
- ii. **Declaration on Beneficial Shareholding:** The application for transfer of shares shall be accompanied by a declaration from the proposed shareholder whether the shares are proposed to be held for his own benefit or as a nominee, whether jointly or severally, on behalf of others and in the latter case giving the name, occupation and address of the beneficial owner or owners, and the extent of the beneficial interest of each.
- iii. **Certificate by Merchant Banker:** The application for transfer of shares shall be accompanied by a certificate from Category-I Merchant Banker registered under SEBI, certifying the fair value

per share of the insurer. Such certificate shall not have been issued more than 30 days prior to the date of application.

- iv. **Processing Fee:** Every application seeking prior approval of the Competent Authority for transfer of shares shall be accompanied with the proof of payment of non-refundable fee of rupees five lakh along with applicable taxes.

**Provided that** the said fee shall be rupees fifty lakh along with applicable taxes, where the transfer of shareholding exceeds fifty percent of the paid-up equity capital of the insurance company.

**21. Due Diligence:** The Competent Authority shall carry out the requisite due diligence of the proposed transferee prior to grant of approval for registration of transfer of shares under the provisions of sub section (4) of Section 6A of the Act or for issue of shares to the proposed transferee.

**22. Conditions for Approval:** The Competent Authority shall, while according its approval, specify such conditions on transferee as it may consider appropriate

**23. Transfer of shares in case of listed insurance companies:**

**(a)** Transfer of 1% or more but less than 5% of paid-up equity capital of any listed insurer:

- i. Every person who intends to make any transfer or make any arrangement or agreement for transferring one percent or more but less than five percent of the paid-up equity share capital of the insurer, may do so, subject to filing of self-certification of the Fit and Proper criteria, of the acquirer, with the insurer.
- ii. Such filing with the insurer shall be considered as the deemed approval of the Competent Authority for the purpose of Section 6A(4)(b)(iii) of the Act.
- iii. The transferor shall inform the Insurer immediately on execution of the transaction. The transferor is required to ensure compliance for any transaction(s) aggregating to more than 1 per cent of the paid-up capital.

**(b)** Acquisition of 5% or more of paid-up equity capital of any listed insurer:

- i. Every person, who intends to make an acquisition or make an arrangement or agreement for acquisition which shall or is likely to take the aggregate holding of such person to five per cent or more of the paid-up equity share capital of the insurer, shall seek prior approval of the Competent Authority in the manner specified.
- ii. For any subsequent acquisition of shares of the insurer by such person upto ten per cent of the paid-up capital of the insurer, prior approval of the Competent Authority is not necessary.

**(c)** Notwithstanding any of the above, even when the acquisition or aggregate holding is proposed to be less than five percent and if the concerned listed insurer suspects that dubious methods have been adopted to get over the ceiling of five percent to camouflage the real purpose by individuals or groups with a view to acquire controlling interest in the insurer, a reference shall be made to the Authority by the concerned insurer. In such cases, it shall be in order for the Competent Authority to require such shareholders to comply with the Due Diligence and Fit and Proper criteria.

**24. Determination of extent of transfer:**

- (a) For the purpose of reckoning the quantum of transfer or acquisition of shares, scenarios where transfer is executed in favor of one or more parties, whether in a single or multiple transactions aggregating in excess of one per cent or five per cent, the cumulative transfers made during a given financial year shall be considered. Accordingly, whenever the specified limits are likely to exceed in a financial year, the entity shall be under obligation to seek the prior approval of the Competent Authority.
- (b) Listed companies: In case of companies listed on the stock exchanges
  - i. The provisions at (a) above shall be applicable only with respect to the promoters or promoter group.
  - ii. Transfer shall include Offer for Sale, as per SEBI (Issue of Capital and Disclosure Requirements) Regulations, by the existing shareholders, whether or not such shareholder is part of the promoter or promoter group.

**25. Pledge of Shares of Insurance Company:** The provisions relating to transfer of shares as contained in Section 6A(4)(b) of the Act and this chapter shall apply mutatis-mutandis to the creation of pledge or any other kind of encumbrance over shares of an insurance company.

**26. Reporting requirements:**

- i. Every insurer who has been granted registration under the Act shall, within 30 days of the end of every quarter, furnish, in the specified format, to the Authority a statement indicating changes exceeding 1% of the shareholding of the promoter. However, any change in excess of 5% of the shareholding of the promoters shall be reported to the Authority immediately.
- ii. Every insurer shall file a declaration on quarterly basis that its promoters and investors are 'Fit and Proper'.
- iii. Insurance companies shall immediately inform the Authority if any non-compliance is observed with regard to the provisions of the Act, the Regulations and Guidelines framed thereunder and the Circulars issued thereunder.
- iv. In terms of Section 26 of the Act, an insurer shall forthwith furnish to the Authority the full particulars of any alteration which occurs or is made which affects any of the following matters:
  - a. Any encumbrance created on the shareholding of the promoter,
  - b. Any change of control of the promoter,
  - c. Any penal or regulatory action taken against the promoter,
  - d. Any other matters which may be specified from time to time.

**27. Action for Violation or Non-Compliance**

In case of transfer of shares executed beyond the stipulated threshold limits by the shareholders, without the prior approval of the Competent Authority shall attract regulatory action and;

- i. The transferee shall not have any voting rights in any of the meetings of the insurance company.
- ii. The transferee shall promptly dispose of the excess shares acquired, beyond the specified threshold limit.



#### Chapter 4: Listing of Equity Shares of Insurer on Stock Exchange

28. An insurer may approach any financial sector regulator for listing of its equity shares, by way of divestment of equity shares by existing shareholders or fresh issue of shares by the insurers or both, on the stock exchange(s) regulated by the said regulators upon fulfilment of following conditions:

- i. The insurer is satisfied that such listing of equity shares is in the interests of policyholders;
- ii. The insurer shall be able to comply with the regulatory stipulations of the said financial sector regulator(s).
- iii. The listing of equity shares and stock exchange(s) shall not be used as medium to raise capital or transfer shares which would otherwise be in contravention to the applicable regulatory provisions.
- iv. All the regulatory provisions stipulated by the Authority shall be complied with in true letter and spirit.
- v. The insurer shall seek approval for transfer of shares for offer for sale and/or fresh issuance of shares, as may be required vide section 6A of the Act read with Regulation 19 of these Regulations.

**Provided that** the submission of the details of transferee shall not be mandatory.

- vi. The insurers specified under section 10A of the General Insurance Business (Nationalization) Act, 1972 shall ensure compliance with the provisions of section 10B of the said Act.
- vii. The insurer shall file an intimation with the Authority at least 15 days before it approaches any financial sector regulator for listing of its equity shares. The insurer shall also keep the Authority informed regarding the subsequent developments in the said matter.
- viii. Any documents filed by the insurer under this Chapter or any communications between insurer and the Authority with regard to proposed listing of equity shares shall not in any manner be deemed to be or serve as a validation by the Authority of the facts, representations, assertions or anything written in the offer documents. This fact shall be disclosed in bold letters in the offer document.
- ix. Such other conditions as may be specified.

#### Chapter 5: Amalgamation and Transfer of Insurance Business

29. No insurance business of an insurer shall be transferred to or amalgamated with the insurance business of any other insurer except in accordance with a scheme prepared under section 35 of the Act and approved by the Competent Authority in the manner specified in this Chapter.

**Provided that** this Regulation shall not be applicable to companies which fall within purview of General Insurance Business (Nationalization) Act, 1972

**Provided further that** applicability of this Regulation to Life Insurance Corporation of India shall be subject to the provisions of Life Insurance Corporation of India Act 1956.

**Provided further that** this Regulation shall not be applicable in case of a Scheme prepared by the Authority under section 37A of the Act.

**30. For the purpose of this Chapter:**

- i. "Appointed Date" means the date specified in the Scheme as appointed date.
- ii. 'Merged Entity' means the resultant Indian Insurance Company consequent upon the implementation of the Scheme.
- iii. 'Scheme' means scheme of amalgamation and transfer formulated under section 35 of the Insurance Act, 1938 and section 230-232 of the Companies Act, 2013 and not governed by section 37A of the Insurance Act, 1938.
- iv. 'Transacting Insurers' means 'transferor insurer' and the 'transferee insurer'
- v. 'Transferor insurer' means the insurer or insurers, which would be amalgamated with the 'Transferee Insurer' or which would transfer the undertaking of insurance business to the 'Transferee Insurer' under the Scheme of amalgamation and transfer.
- vi. 'Transferee insurer' means the insurer into which the 'Transferor Insurer' is proposed to be Amalgamated or which would acquire the undertaking(s) of insurance business under Scheme of amalgamation and transfer.

**31. Application to be submitted to the Authority:**

- i. The transacting insurers shall submit Notice of Intention to make an application for implementation of the scheme, together with a statement of the nature of the amalgamation and transfer, along with the reasons thereof, and the documents as may be specified.
- ii. The transacting insurers shall immediately after filing of the Notice of Intention to the Authority:
  - a. Cause a statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in newspaper (at least one National daily and one vernacular, copies of which shall be filed with the Authority).
  - b. Cause copies of the proposed scheme to be kept open for inspection by policyholders at the registered office and main corporate office of the transacting insurers and simultaneously the same shall be uploaded on the website of the respective insurers. Such inspection and access to the documents referred to above shall be kept open until the complete implementation of the Scheme.
  - c. Send a notice of the filing of the application in such form, including through the digital channels, as it may direct, to every person resident in India who is the holder of any insurance policy of any of the insurer concerned in the proposed transaction.
- iii. Application seeking 'in-principle' approval of the Competent Authority in such form and manner as may be specified.

**Provided that** the application seeking 'in-principle' approval of the Competent Authority to implement the scheme shall be filed only after 2 months from the filing of date of Notice of Intention, as referred in sub-clause (i) this Regulation.
- iv. The application shall be examined on the basis of such factors as may be considered appropriate including but not limited to the impact of Scheme on
  - a. the available solvency margin of the merged entity post-implementation of the scheme.
  - b. the compliance with other applicable laws and Regulations.

- c. the Interests of the policyholders.
- d. the orderly growth in the insurance sector.

**32. In-principle approval by the Competent Authority:**

- i. The Competent Authority upon satisfaction of such matters as may be deemed fit may grant in-principle approval to the proposed Scheme subject to such conditions as it may consider appropriate.
- ii. While granting such in-principle approval and during the period prior to the transacting insurers receiving the approval of the NCLT for the scheme of arrangement under the Companies Act, 2013, the Competent Authority may, if so required, impose such requirements on the transacting insurers as it may consider necessary and appropriate (a) to ensure protection of the interests of the policyholders; (b) to ring fence the assets of the transacting insurers including stipulations for filing of information/reports at such periodicities as it may deem fit and (c) for such reasons as may be considered appropriate.
- iii. During the interim period, the parties of the Scheme shall ensure that the insurance operations are carried out in compliance with all requirements of the Insurance Act, 1938, the Regulations framed thereunder and the directions issued by the Competent Authority.
- iv. Upon receipt of 'In-principle' approval of the Competent Authority, the transacting insurers to the Scheme shall initiate steps to seek such other approvals as may be required including but not restricted to:
  - a. Filing the scheme of arrangement (along with the 'in-principle' approval of the Competent Authority) with the relevant High Courts/Tribunal, for confirmation of the scheme of arrangement in terms of the Companies Act, 2013 and compliance with all requirements under the Rules framed thereunder.
  - b. Filing application with the Reserve Bank of India (RBI) seeking requisite approvals, if any.
  - c. In cases where a foreign joint venture partner is also associated with the transaction, approval from the regulator in the relevant jurisdiction, if such approval is required; and
  - d. Seek such other approvals as may be necessary, including those from the Securities and Exchange Board of India (SEBI), Stock Exchange(s) and Competition Commission of India (CCI).

**33. Final approval by the Competent Authority**

- i. Every Scheme under these Regulations shall be implemented only after final approval of the Competent Authority.
- ii. On completion of the various processes indicated in the foregoing Regulations in this Chapter and upon receipt of approvals from various applicable regulatory authorities and the relevant Court/Tribunals, as applicable, the transacting insurers shall approach the Authority for the final approval of the Scheme.
- iii. The Competent Authority, upon satisfaction of such matters as may be considered appropriate, may grant its final approval to the Scheme.

### **34. Effect of Final Approval**

- i. The transacting insurers would ensure that the Scheme as finally approved is consistent with:
  - a. The requirements of the Insurance Act, 1938 and Rules/Regulations framed thereunder
  - b. such conditions, requirements or stipulations as might have been imposed by the Competent Authority and/or the other competent authorities while according their regulatory approval.
- ii. The amalgamation and transfer of insurance business, as envisaged in the Scheme, shall be effective from such date as shall be specified while granting its final approval to the Scheme.
- iii. On and from the date of coming into operations of the Scheme or any provisions thereof, the Scheme or such provisions shall be binding on the transacting insurers and also on all the shareholders, policyholders and other creditors and employees of each of the transacting insurers, and on any other person having any right or liability in relation to any of the transacting insurers.
- iv. On and from the date of the coming into operations of the Scheme, the properties and assets of the transferor insurer shall, by virtue of and to the extent provided in the Scheme, be transferred to and vest in, and the liabilities of the transferor insurer shall, by virtue of and to the extent provided in the Scheme, stand transferred to and become the liabilities of the transferee insurer.
- v. Publication of Notice in the newspaper about completion of the process (at least one National Daily and one vernacular, copies of which shall be filed with the Authority).
- vi. The transferee insurer shall, within such time after the implementation of the Scheme as may be specified, furnish such documents and information, as may be specified.

### **35. Powers of Authority:**

- i. The Competent Authority may issue such directions as it deems fit, taking into account the facts and circumstances of each case, its regulatory objectives, the interests of policyholders and orderly growth of the insurance sector, in relation to any sequencing of measures involved in the Scheme being approved by it.
- ii. If any difficulty arises in giving effect to the provisions of the Scheme, the Competent Authority may by order issue such directions which appear to it necessary or expedient for the purpose of removing the difficulty.
- iii. In case of life insurers, if the arrangement involves a reduction of the amount of the insurance and other contracts of the transferor insurer(s) concerned in the amalgamation, the Competent Authority may approve the arrangement reducing the amount of such contracts upon such terms and subject to such conditions as the Competent Authority may think proper, and the reduction of contracts as approved by the Competent Authority shall be valid and binding on all the parties concerned.
- iv. The Competent Authority may, at any time prior to granting final approval to the proposed scheme, cause an independent actuarial valuation of the insurance business (encompassing the assets, liabilities and solvency position) of the transacting insurers.
- v. The Competent Authority may also pass such consequential Order as may be necessary to give effect to the Scheme.

### **36. Payment of non-refundable fee for processing of the application**

- i. The non-refundable fee for the processing of the application for an 'in-principle' approval shall be remitted to the Authority by the transacting insurers.
- ii. The fee shall be one-tenth of one per cent of the total gross premium written direct in India by the each of the transacting insurers during the financial year preceding the financial year in which the application for 'in-principle' approval is filed with the Authority.
- iii. For each of the transacting insurers, the fee shall be subject to a minimum of rupees fifty lakh but shall not be higher than rupees five crore.

**Chapter 6: Manner of Assessment of Compensation to Shareholders or Members in case of Amalgamation under section 37A of the Act**

- 37.** This Chapter provides for the manner of assessment of compensation for the shareholders or members whose interests in, or rights against, the transferee insurer resulting from amalgamation are less than his interest in, or rights against the original insurer.
- 38.** For the purpose of this Chapter
- (a) **“Assets”** includes all assets including the properties of the original insurer which shall, in terms of the Scheme, be taken over by the transferee insurer;
  - (b) **“Appointed Date”** means the date mentioned in the scheme of amalgamation, notified by the Central Government in the official gazette in terms of sub section (4) of section 37A of the Act, on which the provisions of the Scheme of amalgamation shall come into force;
  - (c) **“Compensation”** means the amount assessed by the Authority in accordance with these Regulations and payable either in cash or in kind to the shareholders or members whose interests in, or rights against, the transferee insurer resulting from amalgamation are less than his interest in, or rights against the original insurer;
  - (d) **“Liabilities”** includes the liabilities including contingent liabilities, if any, of the original insurer which shall, in terms of the Scheme, be taken over by the transferee insurer;
  - (e) **“Original insurer”** means the insurer which is amalgamated with the transferee insurer as per the scheme of amalgamation;
  - (f) **“Residual Value of Assets”** means the amount equal to the value of the assets of the original insurer as on the day immediately before the appointed date, less the total amount of liabilities thereof, computed in accordance with the provisions of this Chapter;
  - (g) **“Scheme of amalgamation”** means a Scheme prepared by the Authority and sanctioned and notified by the Central Government under the provisions of Section 37A of the Act;
  - (h) **“Shareholders or members”** mean the shareholders or members of the original insurer immediately before the appointed date as may be specified under the Scheme of amalgamation;
  - (i) **“Transferee Insurer”** means the insurer with whom the original insurer is amalgamated in accordance with the scheme of amalgamation.
- 39.** Every person who, immediately before the appointed date, is registered as a shareholder or a member of the original insurer and the interest in, or rights of such shareholder or member against the transferee insurer are less than the interest in, or rights against the original insurer, shall be eligible for compensation

in accordance with these Regulations.

**Provided that** the eligible shareholders or members shall be considered for payment of such compensation only where the residual value of the assets is positive.

40. The compensation assessed in accordance with the provisions of these Regulations shall be paid either in cash or in kind or partially in cash and partially in kind.
41. The Competent Authority shall assess the compensation payable to the shareholders or members of the original insurer, whose interest in, or rights against the transferee insurer are less than their interest in or rights against the original insurer, on the basis of the residual value of the assets as arrived at in accordance with Regulation 42.
42. Methodology for assessment of Compensation to Shareholders or Members:
  - (a) The residual value shall be apportioned in the following order of preference-
    - i. Subordinated debt under the head "other forms of capital";
    - ii. Preference share capital under the head "other forms of capital";
    - iii. Shareholders or members of the original insurer

Explanation:

- i. Order of preference shall be applicable only where the liabilities under clause (i) and (ii) have not been taken over by the transferee insurer;
  - ii. it is further clarified that in case of clause (a)i and (a)ii above, at each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the class will either be paid in full, or in equal proportion within the same class of recipients, if the proceeds are insufficient to meet the obligations.
- (b) The remaining residual value arrived at in accordance with sub-regulation (a) of this Regulation shall be distributed to every eligible shareholder or member in such proportion as the amount of paid-up capital of the shares held by such shareholder or member bears to the total paid up capital of the original insurer.
  - (c) For the purpose of computation of residual value of assets by the Competent Authority, "assets" shall be the sum total of the following: -
    - i. the amount of cash in hand and the amount of balances with any bank immediately before the appointed date, whether in deposit or current account, and money at call and short notice, balance held outside India being converted at the market rate of exchange;
    - ii. the market value, as on the day immediately before the appointed date, of any securities, shares, debentures, bonds and other investments, held by the original insurer concerned;

**Explanation** -For the purposes of this clause, -

- (a) where the market value of any security, share, debenture, bond or other investment is not considered reasonable by reason of its having been affected by abnormal factors, such investment may be valued on the basis of its average market value over any reasonable period;
- (b) where the market value of any security, share, debenture, bond or other investment is not ascertainable, only such value, if any, shall be taken into account as is considered reasonable having regard to the financial position of the issuing concern,

- the dividend paid by it during the preceding five years and other relevant factors.
- iii. the amount of advances (including loans), other debts, whether secured or unsecured, to the extent to which they are reasonably considered recoverable;
  - iv. the value of any land or buildings;
  - v. the total amount of premia paid, in respect of all leasehold properties, reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;
  - vi. the written down value as per books, or the realisable value, as may be considered reasonable, of all furniture, fixtures and fittings;
  - vii. the market or realisable value, as may be appropriate, of the other assets appearing in the books of the original insurer.
- (d) For the purpose of computation of residual value of assets by the Competent Authority, "liabilities" shall be the total value of
- i. all liabilities existing as on the appointed date, and
  - ii. all contingent liabilities which the transferee insurer may reasonably be expected to discharge on or after the appointed date under the scheme of amalgamation.
- Provided that** (i) policyholders' liabilities in case of a life insurer; and (ii) IBNR and IBNER liabilities in case of a general insurer shall be taken on the basis of the valuation determined by an independent actuary.

### Chapter 7: Other Forms of Capital

- 43.** An insurer may raise funds by issuance of 'Other Forms of Capital' in the manner specified in this Chapter.
- 44. Qualification for "Other Forms of Capital":** Preference Share Capital or Subordinated Debt shall qualify as "Other Forms of Capital" provided all of the following criteria are met:
- i. The instruments must be issued and be fully paid up in cash;
  - ii. The seniority of the claims shall be governed by the following order, *seriatim*:
    - a. Claims of Policyholders
    - b. Claims of Creditors
    - c. Claims of Subordinated Debt holders;
    - d. Claims of Preference Shareholders;
    - e. Claims of Equity Shareholders.
  - iii. The instruments shall neither be secured nor covered by a guarantee of the Insurer or other arrangements that legally enhance the seniority of the claims as Specified in this Chapter.
  - iv. The maturity period of the instruments issued by Insurer under this Chapter shall be as under:

Instrument	Life Insurer, General Insurer or Reinsurer	Health Insurer
Preference Share Capital	Ten Years	Seven Years
Subordinated Debt	Ten Years	Seven Years

**45. Conditions for issue of “Other Forms of Capital”:** Issuance of “Other Forms of Capital” is subject to the following conditions:

- (a) All instruments shall be non-convertible, fully paid up and unsecured;
- (b) Investment in such instruments by Foreign Investors including Foreign Institutional Investors (FIIs) or Foreign Portfolio Investors (FPIs) shall be subject to the following:
  - i. The aggregate investment by all Foreign Investors including FIIs and FPIs shall not exceed the limit specified in FEMA Act, 1999, Regulations or any other stipulations issued thereunder;
  - ii. The issuance of the preference shares and Subordinated Debt to Foreign Investors including FII and FPIs shall be in compliance with the pricing guidelines as may be applicable;
  - iii. The terms and conditions, if any, stipulated by SEBI / other regulatory authorities in regard to issue of the aforesaid instruments shall be complied with;
  - iv. Compliance with all directions, notification, order etc. issued by the Reserve Bank of India (RBI);
  - v. Compliance with the directions/instructions issued by the Central government with respect to FDI;
  - vi. The Insurers shall be permitted to list their Subordinated Debt only on the Indian stock exchanges.
  - vii. The Insurers shall not issue any instruments under this Chapter with ‘Put Option’.
  - viii. Any other condition as may be specified.
- (c) No incentives shall be payable by the Insurer to preference shareholders and holders of Subordinated Debt for early redemption of instruments;
- (d) The rate of dividend payable to the preference shareholders or interest payable to the Subordinated Debt holders may be either a fixed rate or a floating rate. Such rate shall be with reference to a market determined rupee interest benchmark rate;
- (e) Interest on Subordinated Debt shall be charged to the Profit & Loss Account and dividend on preference shares shall be paid out of the distributable profit of the shareholders;
- (f) The solvency margin of the Insurer shall remain above the Control Level;
- (g) In the event of cancellation of dividend distribution on preference shares or failure to service the Subordinated Debt, no restrictions shall be imposed on the Insurer, except for distribution of dividend to equity shareholders;
- (h) Insurer shall ensure compliance with all regulatory requirements, including but not limited to Corporate laws and all other stipulations as may be applicable;
- (i) Such other conditions as may be stipulated.

**46. Prior Approval:** The Insurer shall require prior approval of the Competent Authority for accrual or payment of dividend for preference shares or interest on any Subordinated Debt for any financial year if:

- (a) The solvency margin is below the Control Level of Solvency; or



- (b) The impact of such accrual or payment would result in the Control Level of Solvency falling below or remaining below the regulatory requirement specified by the Authority; or
  - (c) The impact of accrual or payment of interest results in net loss or increases the net loss.
- 47. Reporting requirements:** The Insurer issuing the instruments under these Regulations, shall within 15 days from the date of allotment, submit the details of the funds raised through issue of these instruments, along with the details as may be specified.
- 48. Classification in the Balance Sheet:** The Balance Sheet to be prepared by the Insurer shall classify instruments issued by an Insurer under these Regulations as under :-
- (a) In case of Preference Share Capital, under the head “Share Capital” in the relevant schedule;
  - (b) In case of Subordinated Debt, under the head “Borrowings” in the relevant schedule;
  - (c) In case, any instrument is issued at a premium, the premium received shall be shown under the head “Securities Premium” in the relevant schedule.
- 49. Disclosure:** The Insurer shall disclose the amount raised through the issue of instruments under these Regulations along with a gist of the terms of issue and the maturity / redemption period in the Notes to the Accounts forming part of the Annual Financial Statements prepared.
- 50. Call Back of Instruments**
- (a) Issuance of instrument with ‘Call Option’: An Insurer may issue any instrument under these Regulations with a “call option” subject to the condition that Call option may be exercised after the instrument has run at least for a period of five completed years from the date of issuance.
  - (b) Exercise of Call Option: Insurer may exercise the call option without the prior approval of the Competent Authority  
**Provided** that such prior approval of the Competent Authority is required, if after exercising such call option, the solvency position of insurer is not, at least 20% above the Control Level of Solvency margin (e.g.  $1.50 + 20\% \text{ of } 1.50 = 1.8$ ).
  - (c) While considering the proposals, as at proviso to (b) above, received from the Insurer for exercising the call option, the Competent Authority shall, amongst other things, take into consideration the Insurer’s solvency position and future business plans, both at the time of exercise of the call option and after exercise of the call option;
  - (d) Insurers shall inform the Authority of the call options exercised, within 15 days from the date of communication of exercise of option.
- 51.** For the purposes of these Regulations, it is hereby expressly clarified that any event of non-payment of Interest and non-repayment of the redemption amount of the Subordinated Debt by the Insurer shall not be construed to be an event of default and shall not be qualified to be included in an event of default intimation.
- 52. Subscribers to the Instruments:** The issuance of such instruments may be subscribed by any person as may be specified subject to compliance of all other applications laws.

**53. Investment by an Insurer in “Other Forms of Capital” of another insurer:** An Insurer may invest in the “Other Forms of Capital” issued by another Insurer subject to the following:

- (a) such investments shall only be classified under “Other investments”;
- (b) such instruments shall be subject to the exposure norms as specified in applicable Regulations.
- (c) Such investments shall not qualify as an admissible asset for determining the Control Level of Solvency margin;

**Provided** that the existing investments in the Other Forms of Capital instruments of the insurers will continue to be admitted towards the calculation of available solvency till such investments are transferred/redeemed.

- (d) Insurer shall not invest in the Other Forms of Capital of another insurer having a common promoter.

**54. Grant of Loans against the Instruments:** Insurers shall not grant any loan against the security of the instruments issued by them.

**55. Limit for Other Forms of Capital:** The total quantum of the instruments under Other Forms of Capital taken together shall be lower of the following, at any point in time:

- (a) 50 percent of the total paid up equity share capital and securities premium of an Insurer;
- (b) 50 percent of the net worth of the Insurer.

**56. Amortization of the instruments for the purpose of computing solvency**

- (a) The instruments issued as “Other Forms of Capital”, net of hair cut as specified in sub - Regulation (b) herein below, shall be counted towards “Available Solvency Margin” of the Insurer.
- (b) The instruments shall be subjected to a progressive hair cut for the purpose of computation of “Available Solvency Margin” on straight-line basis in the final five years prior to maturity. Accordingly, as these instruments issued under this Chapter approach maturity, the outstanding balances are to be reckoned for inclusion in capital as indicated in Table “A” below:

**TABLE- A**

<b>Years to Maturity</b>	<b>% of Capital Included in Available Solvency Margin</b>
5 years or more	100%
4 years and less than 5 years	80%
3 years and less than 4 years	60%
2 years and less than 3 years	40%
1 year and less than 2 years	20%
Less than 1 year	0%

In effect, the amount arrived at after making the above said adjustment alone shall be eligible for inclusion in “Available Solvency Margin”.

Further, determination of such hair cut shall be applied at the end of each financial quarter based on

the "years to maturity".

#### 57. Responsibility of the Board of the Insurer

- (a) For issuance of preference shares, a resolution by the board of directors of the Insurer and a special resolution shall be passed in the general body meeting of the shareholders of the Insurer authorizing the issue of such preference shares;
- (b) For issue of any Subordinated Debt, a resolution by the board of directors of the Insurer shall be passed authorizing the issue of such Subordinated Debt;
- (c) The board of directors of the Insurer shall ensure that it is rational for Insurer to issue Other Forms of Capital to meet its capital and / or solvency requirement.
- (d) The board of directors of the Insurer which has raised Other Forms of Capital shall ensure:
  - i. compliance with these Regulations at all times;
  - ii. the reasonableness of the interest/coupon rate for Subordinated Debt or dividend rate for preference shares.

### Chapter 8: Miscellaneous

#### 58. Annual Fee

- i. An insurer who has been granted a Certificate of Registration under Section 3 of the Act shall pay, an annual fee along with applicable taxes for every financial year to the Authority before 31<sup>st</sup> day of January of the preceding financial year.
- ii. The annual fee shall be higher of:
  - a. Rupees Ten lakh, or
  - b. One-twentieth of one per cent of total gross premium written direct by an insurer in India during the financial year preceding the year in which the annual fee is required to be paid, or rupees fifteen crore whichever is less;

**Provided that** in the case of an insurer carrying on solely re-insurance business, instead of the total gross premium written direct in India, the total premium in respect of facultative reinsurance accepted by it in India shall be taken into account.
- iii. The annual fee shall be paid into the account of Insurance Regulatory and Development Authority of India. The annual fee shall be remitted through any of the recognized modes of electronic funds transfer.
- iv. If the insurer fails to deposit the annual fee before the date specified in sub-clause (i), the Competent Authority may accept the payment of annual fee along with an additional fee by way of penalty of
  - a. Two percent of the annual fee if the fee is paid within 30 days after the expiry of the last date of payment of annual fee; or
  - b. Ten percent of the annual fee if the fee is paid after expiry of the last date of payment

stipulated in this Regulation but before the end of financial year in which the annual fee was required to be paid.

- v. Where the insurer has failed to pay the fee before the end of the financial year in which it is due to be paid, certificate of registration is liable to be cancelled in terms of provisions of Section 3 read with sub section (2) of Section 3A of the Act.

**59. Issue of duplicate certificate:** The Competent Authority may, on receipt of fee of rupees five thousand along with applicable taxes, issue a duplicate certificate to an insurer, if the insurer makes an application to the Authority in Form IRDAI/R4, as specified.

## **60. Suspension or Cancellation of Certificate of Registration**

### **(1) Cancellation of registration pursuant to voluntary surrender of Certificate of Registration by Insurer:**

- i. The insurer may surrender the Certificate of Registration granted to it and may request the Authority to cancel the same in the cases as may be specified.
- ii. The Authority, after examining the request, may cancel the Certificate of Registration subject to such conditions as may be necessary to protect the interests of the policyholders of the insurer.

### **(2) Suspension or Cancellation of registration:** Without prejudice to any penalty which may be imposed or any action taken under the provisions of the Act, the registration of any insurer may be suspended by the Competent Authority or cancelled by the Authority for a class or classes of insurance business for such period as may be specified by an Order under the following circumstances:

- i. the insurer fails, at any time, to comply with any provisions of the Act in general and provision of Section 64V and Section 64VA of the Act in particular,
- ii. the insurer is in liquidation or is adjudged as an insolvent,
- iii. the business or a class of the business of the insurer has been transferred to any person or has been transferred to or amalgamated with the business of any other insurer without the approval of the Authority,
- iv. defaults in complying with, or acts in contravention of, any requirement of the Act or of any Rule or any Regulation, Direction or Order issued by the Authority, particularly if the insurer:
  - (a) conducts its business in a manner prejudicial to the interest of the policyholders;
  - (b) fails to furnish any information as required by the Authority relating to its insurance business;
  - (c) does not submit periodical returns as required under the Act or as directed by the Authority;
  - (d) does not cooperate in any inquiry conducted by the Authority;
  - (e) indulges in manipulative practices;
  - (f) indulges in unfair trade practices;

- (g) fails to make investment in the infrastructure or social sector specified in the Regulations.
- v. the Authority has reasons to believe that any claim upon the insurer arising in India under any policy of insurance remains unpaid for three months after final judgment in regular court of law,
  - vi. the insurer carries on any business other than the class of insurance business for which registration has been granted by the Authority or any specified business,
  - vii. the insurer defaults in complying with any direction issued or order made, as the case may be, by the Authority under the Insurance Regulatory and Development Authority Act, 1999,
  - viii. the insurer defaults in complying with, or acts in contravention of, any requirement of the Companies Act, 2013, or the General Insurance Business (Nationalization) Act, 1972 or the Foreign Exchange Management Act, 1999 or the Prevention of Money Laundering Act, 2002 or Rules and/or Regulations framed thereunder;
  - ix. the insurer fails to pay the annual fee required under section 3A of the Act, or
  - x. Insurer or promoter of the insurer are no more compliant with the "Fit & Proper" criteria specified as per **Schedule 1**; or
  - xi. the insurer is convicted for an offence under any law for the time being in force:

**Provided that** the Authority for reasons to be recorded in writing may, in case of repeated defaults of the type mentioned above, impose a penalty of cancellation of Certificate of Registration.

- (3) **Procedure for Suspension or Cancellation of Certificate of Registration:** The Certificate of Registration of the insurer shall be suspended or cancelled following the procedure as may be specified.
- (4) **Effect of suspension or cancellation of Certificate:** On and from the date of suspension or cancellation of the Certificate of Registration, the insurer shall cease to transact new insurance business:  
**Provided that** the Competent Authority may direct the insurer to continue to service the existing policyholders for such period as may be specified in the Order made under these Regulations.
- (5) **Publication of order:** The Order passed under Regulations 60(2) of these Regulations shall be published in at least two daily newspapers in the area where the insurer has its principal place of business or registered office.

## **61. Repeal and Savings**

- (1) The following Regulations shall be repealed from the date these Regulations come into force:
  - i. Insurance Regulatory and Development Authority of India (Registration of Indian Insurance Companies) Regulations, 2022
  - ii. Insurance Regulatory and Development Authority of India (Other Forms of Capital) Regulations, 2022
  - iii. Insurance Regulatory and Development Authority of India (Manner of Assessment of

Compensation to Shareholders or Members on Amalgamation) Regulations, 2021

- iv. Insurance Regulatory and Development Authority of India (Issuance of Capital by Indian Insurance Companies transacting other than Life Insurance business) Regulations, 2015
  - v. Insurance Regulatory and Development Authority of India (Issuance of Capital by Indian Insurance Companies transacting Life Insurance business) Regulations, 2015
  - vi. Insurance Regulatory and Development Authority (Scheme of Amalgamation and Transfer of Life Insurance Business) Regulations, 2013
  - vii. Insurance Regulatory and Development Authority (Scheme of Amalgamation and Transfer of General Insurance Business) Regulations, 2011
- (2) Unless otherwise provided by these Regulations, anything done or any action taken or purported to have been done or taken in respect of the Regulations mentioned in sub-Regulation (1) shall be deemed to have been done or taken under the corresponding provisions of these Regulations.

**Schedule 1: Fit & Proper Criteria**

**Determination of “Fit and Proper” Status - Illustrative criteria for determining “fit and proper” status of applicants, promoters and/or Investors**

In determining whether any individual and/or entity is “fit and proper” to be a promoter or investor of Insurer, the Competent Authority may take into account all relevant factors, as appropriate, **including, but not limited to the following:**

- i. The individual or entity’s integrity, reputation, track record:
  - 1. The financial strength of the promoter or investor.
  - 2. Ability to infuse capital to meet business, solvency and regulatory requirements.
  - 3. Compliance with all applicable laws in India including Prevention of Money Laundering Act, FEMA and taxation law.
  - 4. Ability to access capital or financial markets to source funds that may be needed for any future capital infusion.
  - 5. Business record, business and financial position and past experience.
- ii. Due-diligence
  - 1. Approval or NOC by other regulatory bodies in India and/or outside India, as applicable;
  - 2. Insider trading, fraudulent or unfair trade practices or market manipulation by the promoters, investors or any of its group entities.
  - 3. Proceedings including conviction against the individual or entity or any of its promoter or group entities or any of its KMPs, by any regulatory or statutory or judicial bodies in India or outside India.
- iii. Interests of policyholders and general public at large.
- iv. Impact on the management and governance structure.
- v. Agreement between shareholders and impact on control or management.
- vi. Shareholding pattern and Capital structure of the promoter or investor.
- vii. Source of funds for investment.
- viii. Beneficial ownership of shares of the insurer and the investors and promoters of the insurer.

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**FORM IRDAI/R3**

*INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA*

**(Seal of the Authority)**

**CERTIFICATE OF REGISTRATION**

Registration Number: ....xxx....

This is to certify that (Name of Insurer and address) .....(xxxx).....  
has this day.....(xxx)....been registered in accordance with the provisions of sub section (2A) of section 3 of the Insurance Act, 1938 (4 of 1938) to transact the .....(xxx).....class of business.

Given under the seal of the Authority at Hyderabad this....(xx) ....day of...(xxx)...two thousand and .....(xxx).....

**Signature**

**(Competent Authority)**

**INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA**