IRDAI'S EXPOSURE DRAFT ON INSURANCE COMMISSIONS AND REMUNERATION OF 2022

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Introduction

The commission/remuneration and rewards payable to insurance agents and insurance intermediaries (such as insurance brokers, corporate agents, web aggregators and insurance marketing firms) for the solicitation and procurement of insurance business have historically been strictly regulated in terms of the amounts and manner of payment. In this regard, Indian insurance companies have always been restricted from paying any commission/remuneration or reward for each policy sold in excess of the amounts specified under applicable insurance laws.

There have been a number of representations made and recommendations shared over almost the past couple of decades for: (a) rewards to insurance agents and intermediaries to be introduced, and (b) the strict limits on commission/remuneration to be lifted or otherwise amended to give Insurance Companies flexibility in terms of the amounts payable. Certain reforms on commission structures were introduced over time, such as bonus for insurance agents and, later, rewards being introduced for insurance agents and insurance intermediaries on 15 April and 14 December 2016, respectively, where the capping on rewards was, broadly on the basis of the overall commission and remuneration paid to the respective eligible entities, rather than at a per-product level as otherwise applicable for commission and remuneration.

In terms of the commission and remuneration limits, following a number of press reports indicating that the regulator was considering significant changes to the existing framework for commission, remuneration and rewards to insurance agents and insurance intermediaries, the IRDAI has recently released an exposure draft on "*IRDAI (Payment of Commission or Remuneration or Reward to Insurance Agents and Insurance Intermediaries) Regulations, 2022*" of 23 August 2022 ("**Draft Regulations**") which propose to *inter alia* lift the strict commission/remuneration limits specified earlier[1] under the IRDAI (Payment of commission or remuneration or reward to insurance agents and insurance intermediaries) Regulations 2016, and permit Insurance Companies to, effectively, self-regulate the amounts payable to insurance agents and insurance intermediaries through the policy approved by their Board of Directors.

The objective of the Draft Regulations is stated to be to promote the "*development of new business models, products, strategies and internal processes*", and to provide flexibility to Insurance Companies "*to manage their expenses*" along with the long-standing objective of improving insurance penetration.

Draft Regulations

A brief summary of the proposed key changes in the Draft Regulations are as follows:

1) The Draft Regulations propose to merge the definition of "*Commission*" and "*Remuneration*" for the compensation payable to insurance agents and insurance intermediaries for solicitation and procurement of insurance business.

2) The Draft Regulations require every Insurance Company to have an "*explicitly written policy*" for the payment of commission or remuneration and rewards to insurance agents and insurance intermediaries which shall be approved by the Board of Directors and reviewed annually "*based on the experience*".

3) The Draft Regulations propose that the maximum commission or remuneration and reward payable by Insurance Companies must be in accordance with the following norms:

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1 Regulation 5 is in the following terms presently:

"5. Commission to Individual Insurance agents, remuneration to insurance intermediary

(a) The commission or remuneration to be paid to an insurance agent or an insurance intermediary shall be decided by the insurer based on its Board approved policy.

(b) The maximum commission or remuneration payable under life insurance products including health insurance products offered by life insurers is given in Schedule I.

(c) The maximum commission or remuneration payable under health insurance products offered by general insurers or stand-alone health insurers is given in Schedule II.

(d) The maximum commission or remuneration payable under general insurance (other than motor) products offered by general insurers is given in Schedule III.

(e) The maximum commission or remuneration payable under general insurance (motor) products offered by general insurers is given in Schedule IV.

(f) The maximum rate of commission or remuneration payable by an insurer shall not exceed either:

(i) The maximum specified by these regulations; or

(ii) Any other rate of commission or remuneration approved by the Authority under any other Regulations or Guidelines whichever is lower."

a. ***<u>For life insurance (including health insurance products offered by Life Insurers)</u>***: (i) if actual Expenses of Management ("**EOM"**) in the preceding financial year do not exceed 70% of the allowable EOM limits, then the Life Insurer can choose (with the due approval of the Board of Directors) to apply the commission limits set out in Schedule I to the Draft Regulations or apply the commission limits set under the Board approved policy; or (ii) if actual EOM in the preceding financial year exceeds 70% of the allowable EOM limits, then Life Insurer is required to comply with the limits set out in Schedule I to the Draft Regulations.

b. ***<u>For general insurance (including health insurance products offered by General Insurers)</u>***: the maximum commission or remuneration and rewards "*shall not exceed 20 percent of the gross premium written in India in that financial year*".

c. ***<u>For health insurance offered by standalone health insurers</u>***: the maximum commission or remuneration and rewards "*shall not exceed 20 percent of the gross premium written in India in that financial year*".

4) The Draft Regulations also set out norms in terms of the objectives of the Board policy and the minimum requirements to be stated in the Board policy, including:

a. The manner and conditions of payment of commission or remuneration and rewards to insurance agents and insurance intermediaries.

b. A schedule setting out the maximum commission or remuneration, for insurance agents and insurance intermediaries respectively, as a percentage of the premium under each line of business.

c. Renewal commission (if any) post termination of insurance agents and hereditary commission in the event of the death of an insurance agent.

d. Specific criteria for payment of first year, renewal, single and additional commission or remuneration and rewards to insurance agents or insurance intermediaries "*with respect to every product*".

e. Manner and conditions for transfer of orphan policies.

f. Grounds and manner for termination, suspension and cancellation of appointment of insurance agents and insurance intermediaries.

g. Any restrictions on the products to be sold by any insurance agents or insurance intermediaries.

5) The Draft Regulations further specify that if a policyholder directly procures an insurance policy from an Insurance Company, then no commission or remuneration can be paid on such policy to any insurance agent or insurance intermediary, and in such cases, the Insurer shall necessarily grant a discount on premium as may be specified under its Board approved policy.

The IRDAI has requested comments from stakeholders on the proposed Draft Regulations by 14 September 2022 in the format prescribed thereunder.

Concluding Remarks

While the overhaul proposed through the Draft Regulations appears to have been largely welcomed by various industry stakeholders, if implemented in its present form, the scope of the self-regulation that will be adopted by Insurance Companies and the impact, if any, that the implementation may have on individual insurance agents as well as larger players such as insurance brokers, corporate agents, web aggregators and insurance marketing firms, is left to be seen. The increased flexibility on expenses and relatively relaxed compliance requirements for Insurers is also likely to impact the prevalent commission and remuneration structures in the Indian market, as well as, perhaps, the prevalent product pricing.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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