25 October 2023

Reinsurance Regulations of India: Changes in 2023

Introduction

As a part of the IRDAI's continued efforts to enhance reinsurance business and in order to streamline the regulatory provisions for Indian Insurers, including Foreign Reinsurance Branches (**FRBs**) and International Financial Service Centre Insurance Offices (**IIOs**), the regulator notified the IRDAI (Re-insurance) (Amendment) Regulations 2023 (**Amendment Regulations**) on 23 August 2023[1].

The Amendment Regulations were issued following feedback received from various stakeholders on the exposure drafts of 21 October 2022 (**October Draft**) and 25 November 2022 (**November Draft**). For reference, our articles discussing the key changes proposed under the October Draft and the November Draft can be accessed here and here.

The Amendment Regulations bring changes to the following regulations:

(i) The IRDAI (Re-insurance) Regulations 2018 (**Reinsurance Regulations**);

(ii) The IRDAI (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations 2015 (**FRB Regulations**); and

(iii) The IRDAI (Lloyd's India) Regulations 2016 (**Lloyd's India Regulations**).

The Amendment Regulations incorporate a few of the changes proposed in earlier exposure drafts, and also introduce new requirements in relation to the Order of Preference, Cross Border Reinsurers (**CBRs**), regulatory filings and maintenance of records for Indian Insurers, which are discussed below.

Article

[1] R2 of the Amendment Regulations.

Key Changes

A brief summary of the key changes introduced by way of the Amendment Regulations is set out below:

1) The Reinsurance Regulations continue to apply to Insurers and exempted Insurers as defined under §2(9) and §118(c) of the Insurance Act 1938 respectively, with the exception of IIOs[2]. In this regard, please note that the IIOs are regulated by the International Financial Services Centre Authority, and you can find more information in our article here.

2) Similar to the November Draft, the Amendment Regulations now require every Indian Reinsurer (including FRBs) to maintain a minimum retention of 50% within India (of the Indian reinsurance business underwritten). They also stipulate that any retrocession to an IIO, up to 20%, counts towards this minimum retention requirement[3].

3) The Amendment Regulations define a new and simplified Order of Preference[4], which Cedants are mandatorily required to follow for all reinsurance placements. Previously spanning six levels, this has been streamlined to four levels:

   (a) Category 1: Indian Reinsurer (at present, only GIC Re);

   (b) Category 2: IIOs (which invest 100% of retained premiums, emanating from Indian Insurers, within the Domestic Tariff Area) and FRBs;

   (c) Category 3: Other IIOs

   (d) Category 4: Other Indian Insurers (only in respect of per-risk facultative placements in the insurance segment for which the Insurer is registered to transact business) and CBRs.

4) No change is made to the existing restriction on Indian Insurers, which are not registered with the Authority exclusively to transact re-insurance business, being offered any reinsurance participation, except for facultative reinsurance. Such Indian Insurers are also not permitted to lead any reinsurance protection.

5) Further, a Cedant may not seek terms from or offer for participation to a

---

2 R1(3) of the Reinsurance Regulations.

3 R3(2)(C) of the Reinsurance Regulations.

4 R5(2)(A) of the Reinsurance Regulations.

reinsurer (*ie*, an Indian reinsurer or an FRB) or an IIO, which is "*a group/associate company of other Indian Insurer*"[5].

6) In relation to CBRs, the Amendment Regulations introduce the following changes[6]:

   (a) Reinsurance placements with "*any International Pool or Risk sharing arrangement having CBRs as members, participants or administrators*" now require prior approval of the IRDAI.

   (b) The IRDAI may additionally review "*the business underwritten, claims experience and lines of support given by a CBR*" and may stipulate conditions on a case-by-case basis.

7) Compliance and reporting requirements have been simplified. In this regard, the Amendment Regulations introduce certain relaxations in terms of the manner/format of the regulatory filings as well as the records to be maintained by Indian Insurers[7]:

   (a) Similar to the earlier drafts, the Amendment Regulations dispense with the requirement of a Board approval for their annual reinsurance programme (for the forthcoming year) and filing their retention policy with the IRDAI. Indian Insurers are now required to submit a summary version of their "*proposed*" reinsurance programme for the forthcoming financial year to the IRDAI, in the prescribed format. This to be done at least 45 days before the financial year begins.

   (b) As proposed by the November Draft, the Amendment Regulations extend the period of filing the final re-insurance programme (which still requires a Board approval) with the IRDAI as well as segment wise details of the reinsurance placements made in the previous year to "*within 45 days*" after the financial year begins, instead of the previous 30 days. In addition, the Amendment Regulations now require every Indian Insurer to also, *inter alia*, highlight any improvements made in net retention per insurance segment.

   (c) The Amendment Regulations dispense with the requirement of submitting soft copies of "*each and every re-insurance contract*" to the IRDAI. Instead, every Indian Insurer is now required to submit a

---

5 Explanation to R5(1) and Explanation 3 to R5(2)(A) of the Reinsurance Regulations.

6 R4 of the Reinsurance Regulations.

7 R3 of the Reinsurance Regulations.

certificate from its CEO confirming "*that all Treaties associated with the Re-insurance Programme for the financial year have been received in original, duly stamped and signed (or digitally signed), from all parties to the treaty*".

(d) The requirement to maintain "*hard copies*", of the various reinsurance related documentation specified in R5 of the Reinsurance Regulations, has been dispensed with.

8) The Amendment Regulations insert R12(2)(C) and R12(2)(D) in the Reinsurance Regulations which provides that the IRDAI may issue guidelines on "*exposure limits of a CBR, with all Cedants taken together*" and "*framework for domestic and international Insurance Pools*" in the future[8].

9) The Amendment Regulations also amend the FRB Regulations and the Lloyd's India Regulations:

(a) As discussed above, the Amendment Regulations provide that any retrocession to an IIO up to 20% by an FRB or a Lloyd's India branch will be counted towards their respective minimum retention requirement[9].

(b) In addition, the Amendment Regulations has lowered the minimum capital requirement for opening a new FRB to Rs.50 crores (c. US$6 million)[10], with a provision to repatriate any excess assigned capital.

(c) The minimum annual fee payable by FRBs and Lloyd's India branches has been raised to Rs.10 lakhs (c.US$12,000)[11] from the *erstwhile* Rs.5 lakhs(c.US$6000).

Concluding Remarks

The Amendment Regulations introduce significant changes to the reinsurance framework in India, with the aim of promoting a favourable business environment for existing market players as well as encouraging more reinsurers to set up businesses in India. In addition, the streamlining of the Order of Preference aligns with the Indian government's goal of attracting more investments in the GIFT City.

The Amendment Regulations come into force from the date of their publication in the

---

8 R12 of the Reinsurance Regulations.

9 Explanation to R4 of the FRB Regulations and Explanation to R8 of the Lloyd's Regulations.

10 R5(g) of the FRB Regulations.

11 R18(2)(a) of the FRB Regulations and R37(2)(a) of the Lloyd's Regulations.

official gazette (*ie*, 23 August 2023).

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.

For further information on this topic please contact Tuli & Co

Tel +91 120 693 4000, Fax +91 120 693 4001 or Email lawyers@tuli.co.in

www.tuli.co.in

Celia Jenkins

Partner

Anuj Bahukhandi

Managing Associate

Priti Singh

Associate