

Item No. 22

Issuance of IRDAI (Insurance Intermediaries) (Amendment) Regulations, 2019

Reference is drawn to the gazette notification issued by the Government of India, Ministry of Finance, Department of Financial Services dated 2nd September, 2019 amending the Indian Insurance Companies (Foreign Investment) Rules, 2015 (Flag “A”). The notification stipulates that there shall be no cap to foreign equity investment for intermediaries or insurance intermediaries. It further states that FDI proposals under this rule shall be allowed under the automatic route subject to verification by the Authority. It also stipulates insurance intermediary, having majority shareholding of foreign investors, to undertake to comply with given conditions.

It is observed that six categories of insurance intermediaries namely insurance brokers, insurance web aggregator, insurance marketing firm, corporate agent, insurance surveyor and loss assessor, third party administrators – health services are impacted by this notification. The regulations of these insurance intermediaries carries reference to limit of FDI and Indian owned and Indian control criteria which is modified by the above notification.

In order to give effect to the above notification, all the six insurance intermediary regulations are being proposed to be changed in one go through this amendment. This is being done on the same lines of Insurance Laws (Amendment) Act, 2015 by virtue of which the Insurance Act, 1938, IRDA Act, 1999 and the GIBNA Act, 1972 was amended.

The proposed amendments to various regulations for two insurance intermediaries namely insurance brokers and insurance web aggregators are given below:

I. IRDAI (Insurance Brokers) Regulations, 2018

S.No.	Reg No.	Sub-Regulation	Reason
1	Reg 21. Indian owned and Indian Control	Every Insurance Broker granted Certificate of Registration shall be governed by “Indian owned and controlled” requirements as specified in Act, Rules and guidelines	In light of FDI being made 100% in insurance intermediaries, the concept of Indian

			owned and control is made redundant. Therefore proposed to be deleted.
2	Reg 58. Repeal and Savings:	(4) An undertaking to the effect that compliance of “Indian owned and controlled” as required under the regulation has been ensured shall be filed by all Insurance Brokers duly signed by the Principal Officer and Chief Compliance Officer within 45 days from the date of meeting of the Board of Directors, where such compliance has been confirmed	As above
3	SCHEDULE I – Form O	13. We confirm that the company is complying with Indian Owned and Indian Control requirements as laid down by the Authority during the Registration period.	As above
4	Form TB I. Documents and the details of the transferee (person buying shares/ investing into the broking company) accompanying the transfer of share application	13. Compliance of provisions of “Indian owned and controlled” (please attach a brief note on the same)	As above

II. IRDAI (Insurance Web Aggregators) Regulations, 2017

S.No.	Reg No.	Sub-Regulation	Reason
1	Reg 8) Requirements of Capital and net-worth	a) Capital Requirements iv) “The applicant shall also comply with the Rule, Regulation, Circular, Guidelines, etc. issued in respect of Indian owned and controlled”	Proposed for deletion as FDI has been increased to 100%
1	Reg 8) Requirements of Capital and net-worth	b) Manner of calculation of equity capital held by foreign investors i) To delete the words “forty-nine per cent of paid-up equity capital of Insurance Web Aggregator at any time or”	Proposed for deletion as FDI has been increased to 100%. The revised wordings of the sub-regulation

			shall read as under: i) The aggregate holdings of equity shares or contribution of the Insurance Web Aggregator by foreign investors, including portfolio investors, shall not exceed such foreign investment limit as prescribed by the Central Government.
2	Reg 41) Repeal and Savings	<p>iii) Every Insurance Web-Aggregator granted Certificate of Registration for acting as a web-aggregator shall ensure compliance of “Indian owned and controlled” as specified in Act, Rules, Regulations and guidelines within such period as may be specified by the Authority.</p> <p>v) An undertaking to the effect that compliance of “Indian owned and controlled” as required under the regulation has been ensured shall be filed by all Insurance Web Aggregators duly signed by the Chief Executive Officer and Chief Compliance Officer within 45 days from the date of meeting of the Board of Directors, where such compliance has been confirmed.</p>	In light of FDI being made 100% in insurance intermediaries, the concept of Indian owned and control is made redundant. Therefore proposed to be deleted.
3	FORM AD - Documents and the details of the transferee accompanying the transfer of share application	16. Compliance of provisions of “Indian owned and controlled” (please attach a brief note on the same)	As above

III. IRDAI (Registration of Insurance Marketing Firm) Regulations, 2015

IV. IRDAI (Registration of Corporate Agents) Regulations, 2015

V. IRDAI (Insurance Surveyor and Loss Assessors) Regulations, 2015

VI. IRDAI (Third Party Administrators – Health Services) Regulations, 2016

With regard to FDI requirements for insurance marketing firm, corporate agents, insurance surveyor and loss assessor and Third Party Administrators – Health Services, the regulations stipulate that the limit shall be as specified by the Central Government from time to time. With regard to Indian owned and controlled requirements for the above insurance intermediaries the intermediaries are guided by the Government of India's Indian Insurance Companies (Foreign Investment) Rules, 2015 and IRDA circular dt 20.11.2015 issued in this regard.

The Indian Insurance Companies (Foreign Investment) Amendment Rules, 2019 require the insurance intermediary that has majority shareholding of foreign investors to undertake to comply with conditions as laid down. One of the condition stipulates that the insurance intermediary shall not make payments to the foreign group or promoter or subsidiary or interconnected or associate entity beyond what is necessary or permitted by the Authority. It is proposed to limit such payments to 10% of the total expenses incurred by the insurance intermediary.

Another condition stipulated in the Indian Insurance Companies (Foreign Investment) Amendment Rules, 2019 is the composition of the Board and the Key Management Persons shall be as specified by the concerned regulators. In that context it is proposed majority of the directors in its Board and majority of key management persons are resident Indian citizens as it will enhance managerial and technical skills of resident Indian citizens.

In order to comply with the conditions, it is recommended that the insurance intermediary shall submit undertaking which is proposed to be inserted in each of the insurance intermediary regulations through Schedule - AA

The above regulations were considered in the 40th meeting of the Insurance Advisory Committee held in IRDAI office on 25th September, 2019. The Insurance Advisory Committee recommended that guidelines for repatriation of dividends may be drawn up for transparency and clarity. The IAC recommended for placing the regulations to the Authority for their approval.

Accordingly, the IRDAI (Insurance Intermediaries) (Amendment) Regulations, 2019 is placed to the Authority for approval.

**Insurance Regulatory and Development Authority of India
(Insurance Intermediaries) (Amendment) Regulations, 2019**

F.No. IRDAI/ Reg/ / /2019 - In exercise of the powers conferred by clause (vb) of sub-section 2 of section 114A read with Section 42D and 42E of the Insurance Act, 1938 (4 of 1938) and section 2(1)(f), 14 and 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:-

Objective: Pursuant to the amendment to the Indian Insurance Companies (Foreign Investment) Rules, 2015 by the Indian Insurance Companies (Foreign Investment) Amendment Rules, 2019 issued by the Central Government, removing, *inter alia*, the cap to foreign equity investment for intermediaries or insurance intermediaries, the objective of these regulations is to amend corresponding provisions of various regulations applicable to intermediaries or insurance intermediaries.

1. Short Title and commencement:

- 1.1 These Regulations may be called the Insurance Regulatory and Development Authority of India (Insurance Intermediaries) (Amendment) Regulations, 2019.
- 1.2 These Regulations shall come into force on the date of their publication in the Official Gazette.

CHAPTER I

**1. Amendment to the Insurance Regulatory and Development Authority of India
(Insurance Brokers) Regulations, 2018**

- a) Regulation 21 - Indian owned and Indian Control shall be omitted.
- b) After Regulation 21, the following Regulation shall be inserted, namely: —

“21A – Foreign Investment

Every applicant, who is a company incorporated under the Companies Act, 2013 and has a majority of shareholding of foreign investors, shall furnish an undertaking as given in Schedule – AA.”

- c) Sub-regulation (4) of Regulation 58 shall be omitted.
- d) S. No. 13 of the undertaking in SCHEDULE I – Form O shall be omitted.
- e) S. No. 13 under Part I of Form TB shall be omitted.

CHAPTER II

2. Amendment to the Insurance Regulatory and Development Authority of India (Insurance Web Aggregators) Regulations, 2017

- a) Clause (iv) of sub-regulation (a) of Regulation 8 shall be omitted.
- b) In clause (i) of sub-regulation (b) of Regulation 8, the words “forty-nine per cent of paid-up equity capital of Insurance Web Aggregator at any time or” shall be omitted.
- c) After Regulation 8, the following Regulation shall be inserted, namely: —

“8A – Foreign Investment

Every applicant, who is a company incorporated under the Companies Act, 2013 and has a majority of shareholding of foreign investors, shall furnish an undertaking as given in Schedule – AA.”

- d) Sub-regulation (iii) and (v) of Regulation 41 shall be omitted.
- e) In clause 1(b) of Form AA in SCHEDULE XII, the words “for the purposes of determining Indian owned and controlled,” shall be omitted.
- f) S. No. 16 of SCHEDULE XII – Form AD shall be omitted.

CHAPTER III

3. Amendment to the Insurance Regulatory and Development Authority of India (Registration of Insurance Marketing Firm) Regulations, 2015

- a) After Regulation 6, the following Regulation shall be inserted, namely: —

“6A – Foreign Investment

Every applicant, who is a company incorporated under the Companies Act, 2013 and has a majority of shareholding of foreign investors, shall furnish an undertaking as given in Schedule – AA.”

CHAPTER IV

4. Amendment to the Insurance Regulatory and Development Authority of India (Registration of Corporate Agents) Regulations, 2015

- a) After Regulation 8, the following Regulation shall be inserted, namely: —

“8A – Foreign Investment

Every applicant, who is a company incorporated under the Companies Act, 2013 and has a majority of shareholding of foreign investors, shall furnish an undertaking as given in Schedule – AA.”

CHAPTER V

5. Amendment to the Insurance Regulatory and Development Authority of India (Insurance Surveyors and Loss Assessors) Regulations, 2015

- a) After Regulation 4, the following Regulation shall be inserted, namely: —

“4A – Foreign Investment

Every applicant, who is a company incorporated under the Companies Act, 2013 and has a majority of shareholding of foreign investors, shall furnish an undertaking as given in Schedule – AA.”

CHAPTER VI

6. Amendment to the Insurance Regulatory and Development Authority of India (Third Party Administrators – Health Services) Regulations, 2016

- a) After Regulation 6, the following Regulation shall be inserted, namely: —

“6A – Foreign Investment

Every applicant, who is a company incorporated under the Companies Act, 2013 and has a majority of shareholding of foreign investors, shall furnish an undertaking as given in Schedule – AA.”

Schedule – AA

Undertaking from an insurance intermediary that has majority shareholding of foreign investors

I, (name of person), Chief Executive Officer (CEO) / Principal Officer (PO)/ Managing Director of (name of insurance intermediary), undertake the following:

1. (name of insurance intermediary) is incorporated as a limited company under the provisions of the Companies Act, 2013;
2. (name of person), Chairman of the Board of Directors or (name of person) Chief Executive Officer/ Principal Officer/ Managing Director of the insurance intermediary (strike out whichever is not applicable) is a resident Indian citizen;
3. shall take prior permission of the Authority for repatriating dividend;
4. shall bring in the latest technological, managerial and other skills;
5. shall not make payments (other than dividend) to related parties taken as a whole, beyond 10% of the total expenses of the company in a financial year;
6. majority of the directors on the Board are resident Indian citizens;
7. majority of Key management persons are resident Indian citizens.

Signature of the PO/ CEO/ Managing Director

Place:

Date: