

भारतीय बीमा विनियामक और विकास प्राधिकरण  
INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA

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Report of the Committee for Review of

Draft IRDAI (Minimum Information for Inspection or Investigation)  
Regulations 2018



Submitted to

Chairman, IRDA of India

Date: 20.02.2019

Hyderabad

## **ACKNOWLEDGEMENTS**

At the outset, the Committee would like to thank the Chairman, IRDAI for reposing confidence in the Committee to deliberate on and to make recommendations on the draft IRDAI (Minimum Information for Inspection or Investigation) Regulations, 2018.

The Committee would also like to thank the coordinators of the Sub-Groups and their respective members for their contribution in successfully completing the tasks assigned to them.

The Committee would like to thank the Inspection Department of IRDAI, IT Department of IRDAI, Administration Department of Mumbai Regional Office of IRDAI and teams of the respective entities for facilitating the meetings of the Committee through Video Conferencing and Tele-conferencing.

  
(Nilesh Sathe)

**Chairman of the Committee.**

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## **Chapter 1–Introduction**

### **I. Mandate for the Committee**

1. Section 33 of the Insurance Act, 1938 was amended in 2015. By virtue of such change, the Insurance Regulatory and Development Authority of India (hereinafter referred to as 'IRDAI' or 'the Authority'), in accordance with the provisions of Section 33 of the Insurance Act, 1938, is required to notify the regulations specifying:
  - a. the minimum information to be maintained by insurers or intermediary or insurance intermediary in their books,
  - b. the manner in which such information shall be maintained, and
  - c. the checks and other verifications to be adopted by insurers or intermediary or insurance intermediary, as the case may be, in that connection and all other matters incidental thereto as are in the opinion of IRDAI, necessary to enable the Investigating Officer to discharge his functions satisfactorily under Section 33 of the Insurance Act, 1938.
2. Prior to the amendment of the Insurance Act, 1938, Rule 39 of Insurance Rules, 1939 was prescribed under Section 33 of the Insurance Act, 1938. As Rule 39 is not repealed, it is still in existence and applicable to the entities concerned.
3. The Authority circulated draft IRDAI (Minimum Information for Inspection or Investigation) Regulations, 2018 (hereinafter referred to as draft regulation) on 11<sup>th</sup> January 2018, on its website, inviting comments from various stakeholders. In response to this, Authority received comments from stakeholders.
4. A Committee was constituted by IRDAI on 05<sup>th</sup> October 2018 with the following terms of reference:

- a) To review the draft regulations under Section 33(7) of the Insurance Act, 1938 considering the requirements of Insurance Act, 1938, Rule 39 of the Insurance Rules, 1939 and other legal provisions applicable to the entities;
- b) To consider the comments received from various stakeholders in response to the exposure draft dated 11th January, 2018;
- c) To suggest necessary changes/revisions to the draft regulation considering the requirements of Section 33(7) of the Insurance Act, 1938; Rule 39 of the Insurance Rules, 1939 and other legal provisions applicable to the entities; and
- d) To submit the suggested changes/revisions to the draft regulations within a period of 2 months from the date of the order constituting the Committee.

## II. Composition of the Committee and Sub-Groups:

### 1. The Constitution of the Committee:

Sl.No.	Name of the Member	
1	<b>Mr. Nilesh Sathe</b> Member (Life), IRDA of India	Chairman
2	<b>Mr. D.N.Joshi</b> Executive Director, LIC of India	Member
3	<b>Mr. Pranay Raniwala</b> Compliance Officer of SBI Life Insurance Co. Ltd.	Member
4	<b>Mr. Muralikrishna Cheruvu</b> Compliance Officer of Kotak Mahindra Life Insurance Co. Ltd.	Member
5	<b>Ms Jayashree Nair</b> Compliance Officer of New India Assurance Co. Ltd.	Member
6	<b>Mr. Loknath Kar</b> Compliance Officer of ICICI Lombard General Insurance Co. Ltd.	Member
7	<b>Mr. Sangramjit Sarangi</b> CFO of SBI Life Insurance Co. Ltd.	Member

8	<b>Mr. Jose Chathuparambil John</b> Appointed Actuary of Max Life Insurance Co. Ltd.	Member
9	<b>Mr. Gaurav Malhotra</b> Appointed Actuary of Bajaj Allianz General Insurance Co. Ltd.	Member
10	<b>Ms Deepti Rustagi</b> Compliance Officer of Apollo Munich Health Insurance Co. Ltd.	Member
11	<b>Mr. Deepak Godbole</b> GM - GIC of India	Member
12	<b>Mr. Nilesh Mejari</b> CFO of Munich Re – India Branch (FRB)	Member
13	<b>Mr. Jaideep Devare</b> MD - Mahindra Insurance Brokers Ltd.	Member
14	<b>Mr. Sakharam A Kode</b> Principal Officer of Axis Bank (Corporate Agent)	Member
15	<b>Mr. K.Ganesh</b> CAO of Medi Assist Insurance TPA Pvt Ltd.	Member
16	<b>Mr. Sameer Gupte</b> Principal Officer of NSDI, Data Management Ltd. (Insurance Repository)	Member
17	<b>Mr. Chetan Kumar Jain</b> Principal Officer of Select Insurance Surveyors & Loss Assessors Pvt Ltd.	Member
18	<b>Mr. Yashish Dahiya</b> CEO, M/s Policybazaar Insurance Web Aggregators Ltd.	Member
19	<b>Ms J.Meenakumari</b> CGM (Inspections), IRDA of India	Member Convener

2. During the first meeting of the Committee, held on 23<sup>rd</sup> October 2018, two sub groups were formed to focus on the provisions applicable to insurers and intermediaries. The details of the sub groups are:

Sub-Group I (For insurers)		Sub-Group II (For intermediaries)	
S.No	Sub-Group Constitution	S.No	Sub-Group Constitution
1	Mr. Muralikrishna Cheruvu (Coordinator)	1	Mr. Sakharam A Kode (Coordinator)
2	Mr. DN.Joshi	2	Mr. Jaideep Devare
3	Mr. Pranay Raniwala	3	Mr. K.Ganesh
4	Ms. Jayashree Nair	4	Mr. Sameer Gupte

5	Mr. Loknath Kar	5	Mr. Chetan Kumar Jain
6	Mr. Sangramjit Sarangi	6	Mr. Yashish Dahiya
7	Mr. Jose Chthuparambil John		
8	Mr. Gaurav Malhotra		
9	Mr. Deepti Rustagi		
10	Mr. Deepak Godbole		
11	Mr. Nilesh Mejari		

### III. Committee Meetings:

The Committee made use of the technology available and the meetings of the sub-groups were held either through video conferencing or through tele conferencing, as given below:

No.	Main Committee	Sub Group for Insurers	Sub Group for Intermediaries
1	23-10-2018 Hyderabad	01-11-2018 (Video Conference)	15-11-2018 (Tele-Conference)
2	14-02-2019 Hyderabad	14-11-2018 (Video Conference)	23-11-2018 (Tele-Conference)
3	--	30-11-2018 (Video Conference)	--

### IV. Information shared with the Committee:

1. Draft IRDAI (Minimum Information for Inspection or Investigation) Regulations, 2018
2. From the Inspection Department of IRDAI, the Committee received a document, wherein the comments received from various stakeholders (masking the identity of the stakeholders) on the draft regulation were compiled and analysed.

## **Chapter 2 –Report of the Committee**

1. The Committee has examined:
  - a. the purpose of Section 33 of the Insurance Act 1938 and in particular Section 33 (7) of the Insurance Act, 1938,
  - b. the existing provisions applicable under Rule 39 of the Insurance Rules 1939 prescribed prior to the amendment of the Insurance Act, 1938 in 2015,
  - c. the draft regulation circulated on 11/01/2018 for public comments,
  - d. the compilation and analysis of the comments received by IRDAI in response to the circulated draft regulation.
2. On examination of the provisions of Section 33 of the Insurance Act, 1938, the Committee is of the view that the primary purpose of this section is to empower the Authority to conduct investigations by appointing an Investigating Officer. If directed by the Authority, such Investigating Officer can also conduct inspections. To that extent, inspections referred in Section 33 may be different from the regular inspections conducted by the IRDAI under Section 14 (2(h)) of the IRDA Act, 1999.
3. On examination of the provisions of Rule 39 of the Insurance Rules, 1939, the Committee noted that almost all the provisions of Rule 39 are retained in the draft regulations, except for minor changes to capture the current day business and regulatory needs. In addition to the existing provisions of Rule 39, the draft regulation has also considered the current context of the insurance business environment and included suitable requirements, taking into account the objective underlying the provisions of section 33 (7) of the Insurance Act, 1938.
4. On examination of the draft regulation, the Committee noted that the presentation of requirements under the draft regulations are similar to requirements presented under Rule 39 of the Insurance Rules, 1939. The Committee further noted that it is a generic regulation encompassing various legal requirements and business environments to enable IRDAI to conduct investigations as required under Section 33 of the Insurance



Act, 1938. Neither Rule 39 of the Insurance Rule, 1939 nor the draft regulation have provisions specific to type of entity within insurers or within intermediaries, unless otherwise stated explicitly.

5. The draft regulation proposed to specify the minimum information to be maintained by the insurers/intermediaries in respect of each class or sub-class of insurance business, as may be applicable to such business. The Committee also endorses this approach, as it enables the entities to take appropriate decisions based on the business environment applicable to them, and maintain relevant information as proposed under the draft regulation.
6. The draft regulation outlines the general requirements applicable to different entities, and provides scope for each entity to maintain information as applicable to their business. Hence, there may not be any need to qualify for each scenario in terms of the applicability of various provisions of the draft regulation to different types of entities.
7. The Committee, in accordance with the terms of reference in para I(4)(c), recommends changes or revisions in a tabular form capturing:
  - a. The provisions of draft regulation where changes are suggested;
  - b. Corresponding changes/revisions suggested in the draft regulation along with the rationale for such suggestion;
8. The suggested changes/revisions to the draft regulations are placed as **Annexure** for the consideration of the Authority.

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## ANNEXURE

Regulation	Sub clause	Extracts of Exposure draft Regulations	Comments /Suggestions	Rationale/Reason for change/suggestion by members
1	b	This Regulation shall come into force from 01 <sup>st</sup> April, 2018.	The applicability of the Regulation may be from the date of notification.	Date of applicability may be changed suitably based on when the draft is expected to be notified since the regulation cannot be made applicable from a retrospective date.
2	e	“Working papers” are the documents, with respect to the subject under consideration, containing the observations, noting, recommendations, calculations and decisions of the persons involved in handling the said subject.	“documents” referred in the definition may be replaced with “records”.  Definition may be modified as under: “...containing the observations, noting, recommendations, and calculations, as applicable, and decisions of the persons involved in handling the said subject”.	As the draft regulation already defines record as the information maintained in physical form or electronic form or both, it may be relevant to refer to “record” rather than referring to “document”.  Since all decisions may not necessarily involve all the steps like observations, noting, recommendations, and calculations. Hence, it is proposed to qualify the phrase with words, “as applicable” as given in the suggestion.
4	a	A record of all proposals for insurance received, which shall be serially numbered, listed in chronological order, stating the - proposal number; ....., date when the proposal is signed by the proposer; date and time of receipt of proposal; ....., e-mail id for all policies issued in electronic form wherever available, ....., bank details; ....., distinct client identification number; address	1. Serially numbered to be replaced by " Unique no"  2. Time of receipt of proposal to be deleted  3. Insurance Repository (IR) with which the policy is credited, if any, to be added	Since there are varied practices in the industry with regard to numbering of the proposals, it may be modified from ‘serially numbered’ to ‘uniquely numbered’.  Since time of receipt of proposal may not be relevant, as the policy will commence only after acceptance, the same is suggested to be deleted.  In case of electronic policies issued through IR, name of the IR is key information. Hence, suggested to include.

Regulation	Sub clause	Extracts of Exposure draft Regulations	Comments /Suggestions	Rationale/Reason for change/suggestion by members
		proof; age proof; ..... <b>Aadhar number</b> , if available.....;	4. Qualify with phrase, "if available" with respect to the Aadhar number. 5. e-mail id, where available	In lieu of Supreme Court Judgment, Aadhar number cannot be insisted. Email address is not mandatory for all policies.
4	c	In respect of group insurance business, in addition to the information specified in regulation 4 (a) and (b), the insurer shall maintain - ..... <b>date of collection of premium from each member of the group by the master policyholder</b> or by the insurer; date of remittance of premium to the insurer; date of acknowledgement or receipt issued;	'date of collection of premium from each member of the group' to be replaced from Master policy holder	For practical purposes, the date of collection from the Master policyholder may be made applicable.
4	(iv)	In respect of group insurance policies, ..... date of receipt of cheque by the beneficiary, <b>date of confirmation of receipt of claim by the beneficiary</b> .	"date of confirmation of receipt of claim by the beneficiary" to be deleted and "date of receipt of cheque by the beneficiary" may be modified as "date of receipt of cheque/DD/electronic credit by the beneficiary"	As the field, "date of receipt of cheque" is already quoted, the field, "date of confirmation of receipt of claim by the beneficiary" may be deleted. However, to accommodate all types of payments to the beneficiary, the said clause may be modified to state, "date of receipt of cheque/DD/electronic credit by the beneficiary".
5		The following items of information and related working papers shall be maintained for the business of the insurer as a whole, namely:	The said clause may be modified to state as under:  "The following items of information and related working papers, as	Since some of the information in this clause may not be applicable to entities like reinsurers, the words, "as applicable" may be added.

Regulation	Sub clause	Extracts of Exposure draft Regulations	Comments /Suggestions	Rationale/Reason for change/suggestion by members
5	a	A record of all members of the staff/salaried field workers, involved in solicitation of insurance business through direct marketing, giving in respect of each staff member –....., <b>particulars of license held, ..... and Aadhar Number.</b>	<b>applicable</b> , shall be maintained for the business of the insurer as a whole” 1. 'Particulars of licenses held' to be deleted 2. Qualify with phrase, “if available” with respect to the Aadhar number.	1. Staff involved in solicitation through direct marketing do not have licenses 2. In lieu of Supreme Court Judgment, Aadhar number may be insisted.
5	b	A record of all agents involved in solicitation of insurance business giving in respect of each agent – ....., Aadhar Number.	Qualify with phrase, “if available” with respect to the Aadhar number.	In lieu of Supreme Court Judgment, Aadhar number cannot be insisted.
5	c	A record of all insurance intermediaries tied up with the insurer and involved in solicitation of insurance business ....., insurer identification number, ....., and Aadhar Number.	Qualify with phrase, “if available” with respect to the Aadhar number.	In lieu of SC Judgment, Aadhar number cannot be insisted.
5	e	Record of Appointment letters issued to all persons (members of the staff, agents, insurance intermediaries) involved in solicitation of insurance business and staff and changes therein;	Insurance intermediaries to be deleted and “salaried field workers” may be included.	Appointment letter to insurance intermediary is not issued by the insurance companies. However, insurance companies may appoint sales force for direct marketing.
5	g	Record of staff/salaried field workers involved in solicitation showing - name, date of appointment, present designation,	The phrase 'with cross reference to appointment letters' may be deleted’.	Appointment letters are issued only at the induction stage. Goal sheets contains the details of business expected,

Regulation	Sub clause	Extracts of Exposure draft Regulations	Comments /Suggestions	Rationale/Reason for change/suggestion by members
		and present salary perks, allowances, any other benefits; taxes and related papers; business expected from and written by them with <b>cross reference to appointment letters</b> and date of termination, if any;		transfers etc. Same are communicated in writing and can be verified
14	b	Organization Charts; Ultimate beneficiaries, affiliates, group companies and subsidiaries;	Group companies "as per applicable laws (Acts, regulations and guidelines)" may be added.	Definition of Group may vary under different laws.
14	c	Composition of sub-committees of the Board along with changes in its composition, copies of minutes of such Subcommittee Meetings and agenda notes; reports of the sub-committee presented to Board; Action taken reports of all decisions with reference to each meeting.	'Sub committees' may be replaced with "Board Committees"	Committees constituted by the Board are referred as Board Committees.
14	d	Meetings of all management committees and reports of all management committees; Action taken reports of all decisions with reference to each meeting	Management Committee may be replaced with "Internal Committees", if any,	Management Committee may be replaced with "Internal Committees, if any" to avoid any interpretational issue in understanding what the "Management Committee" means.
14	e	Board approved policy for each function of the insurer, Standard Operational Procedures and implementation manuals with respect to the Board approved Policy for each functions of the company.	'for each function', to be appended with the words, "' as applicable under various Acts, Regulations and Guidelines as applicable from time to time"	The requirements of board policy are laid down under various Acts, Regulations and Guidelines (Companies Act, PMLA, Insurance Act, Corporate Governance guidelines etc) hence, it may be spelt out explicitly.

Regulation	Sub clause	Extracts of Exposure draft Regulations	Comments /Suggestions	Rationale/Reason change/suggestion by members
14	j	Total number of Management meetings held and total number of such Management meetings attended by the Appointed Actuary;	This clause to be deleted.	It may be taken up for offsite supervision.
14	t	Compliance analysis and its Status with respect to the various applicable Laws;	14 (t): The term 'Compliance Analysis' may be modified as 'Record of all applicable laws and its compliance status to each of them	The said changes are suggested to remove any ambiguity in using the word 'compliance analysis'.
14	u	Compliance analysis and its status with respect to the standard operating procedures, Board approved policies and implementation manuals;	14 (u): The clause may be modified as "Record of all standard operating procedures, Board approved policies and implementation manuals and its compliance status to each of them"	
14	x	Training records of all employees, agents, intermediaries and insurance intermediaries in all areas for a period of five years;	Period of five years to be replaced with three years or as per the applicable laws.	Training records beyond 3 does not serve any purpose as appointment letter or certificate of registration is also provided for a period of 3 years.
14	bb	All internal circulars, internal guidelines and implementation procedures issued by the insurer;	The word, "all" may be replaced with "any".	The requirements of Board decisions are translated in to implementation procedures, internal guidelines and circulars. If any such decisions are carried out, those need to be maintained.

Regulation	Sub clause	Extracts of Exposure draft Regulations	Comments /Suggestions	Rationale/Reason for change/suggestion by members
14	ee	All agreements with outsourcing entities, agents, intermediaries, and insurance intermediaries, hospitals, and others for solicitation or servicing of insurance business or training etc., cost benefit analysis and working papers with respect to all the outsourcing arrangements and the payments made thereon;	<p>The phrase "agreement" may be removed from regulation 6, so that these two regulations become independent requirements and to that extent overlap will be removed.</p> <p>In addition to this, "etc" in the regulation may be replaced with "for any other purpose", to capture other possibilities. Also, we may add, "CIN – Company Identification Number" so as to have cross reference with the registration granted by MCA.</p>	As quoted in the adjacent column.
14	ff	Appointment letters of employees, consultants, trainers, mentors, agents and all other intermediaries and insurance intermediaries;	This clause to be deleted and consultants, trainers, mentors may be added in regulation 5 (e)	Overlapping with requirement of other Regulation.
14	jj	IT Systems;	This provision may be modified as below: "the process manual, Standard operating manuals, system audits and all related document of IT systems as applicable"	This was not sufficiently defined earlier, hence may be defined now.
14	kk	Places of Business;	This clause to be deleted.	The provision is not sufficiently elaborated. It may be deleted.
15, 16		"..... shall maintain, at its principal place of business in India, records specified in this regulation....."	The following proviso could be added: "Provided that where it is not convenient or practicable to maintain any item of information in full detail	The proposed proviso would enable maintenance of information at the respective branch offices, similar to the option given to the insurers.

Regulation	Sub clause	Extracts of Exposure draft Regulations	Comments /Suggestions	Rationale/Reason change/suggestion by members	for
			at such principal place of business, it may be maintained at the branches or other offices in such a way that each such branch or office maintains the relevant part of the information applicable to its working.		
15	b	Activities outsourced with details of name and address of the vendor	Vendor list with activity details and Agreement validity details as a separate list	This may be included as an addition to the list, as it helps to summarize the outsourced activities.	
15	c	“..... Motor Insurance Sales Person .....”	Replace “Motor Insurance Sales Person” with “Motor Insurance Service Provider”.	The term to be consistent with MISF guidelines issued in 2017.	
15	f	Claims detail	The following provisos could be added: ”Transactional data of all claims reported and processed along with detailed audit trail of processes carried out to be maintained; Documents submitted in support of claim, correspondence exchanged in respect of claim to be maintained”;	As it captures comprehensive details on claims, this may be added.	
15	(g)	Reinsurance premium with details such as date of receipt of premium, currency, name...UIN of foreign brokers ...	UIN for foreign brokers to be deleted.	IRDAI does not allot UIN for foreign brokers. Hence, that requirement needs to be deleted.	

### End of Report