Annexure

IRDAI (GENERAL INSURANCE - REINSURANCE) REGULATIONS, 2016

NOTIFICATION F. NO.

In exercise of the powers conferred by section 114A of the Insurance Act, 1938, sections 14 and 26 of the Insurance Regulatory and Development Authority Act, 1999, the Authority, in consultation with the Insurance Advisory Committee, hereby makes the following regulations-

1. Short title and commencement

(1) These regulations may be called the Insurance Regulatory and Development Authority of India (General Insurance - Reinsurance) Regulations, 2016.
(2) These Regulations replace the Insurance Regulatory and Development Authority (General Insurance - Reinsurance) Regulations, 2013.
(3) These regulations shall come into force on the date of their notification in the Official Gazette.

2. Definitions

In these regulations, unless the context otherwise requires:

a) óAct' means the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);
b) 'Authority' means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of the Act;
c) 'Cedant' is an insurer who enters into a reinsurance contract or a reinsurer who enters into a retrocession contract;
d) 'Cession' means the part of insurance passed to a reinsurer by the insurer which issued a policy to the original insured or part of contract ceded by a reinsurer to a retrocessionaire;
e) 'Cover note' is a written document issued by the reinsurer or the reinsurance broker authorized by it, detailing the contract terms and conditions of the contract and the details of the percentage of risk placed with each reinsurer;
f) óCross Border Reinsurerômeans those insurers/ reinsurers who do not have any physical presence in India and do reinsurance business with Indian Insurers/ Indian reinsure/s, Foreign Reinsurer branches.
g) 'Facultative' means the reinsurance of a part or all of a single policy in which cession is negotiated separately and that the reinsurer and the insurer have the option of accepting or declining each individual submission;
h) óFinancial Yearôfor the purpose of these regulation shall mean financial year in India starting from 1st April to 31st March.

i) “Fronting” means a process by which a direct insurer cedes most of or all of the insurance risk to a reinsurer

j) “Foreign Reinsurer Branch” means a branch of a Foreign Reinsurer who has been granted certificate of registration by the Authority under the IRDAI (Registration and Operation of Branch Offices of Foreign Reinsurers other than Lloyd’s) Regulation 2015 or IRDAI (Lloyd’s India) Regulation, 2015

k) “Indian Insurer” for the purpose of these regulations means an Indian Insurance company who has been granted certificate of registration by the Authority under the IRDA ((Registration of Indian Insurance Companies) Regulations, notified from time to time to carry out general insurance business or health insurance business

l) 'Indian reinsurer/s' means the insurer/s who carry on exclusively reinsurance business and is notified in this behalf by the Authority under section 101A of Insurance Act.

m) “Insurance segments” for the purpose of these regulations, shall mean the following

   i) Fire;
   ii) Marine;
   iii) Health (including Personal Accident & Travel);
   iv) Motor;
   v) Miscellaneous;
   vi) Any other segment (under miscellaneous segment) which contributes more than 10 percent of the GDP of the Miscellaneous class of business;
   vii) Any other class as may be specified by the Authority from time to time

n) 'Pool' means any joint underwriting operation of insurance or reinsurance in which the participating insurer/s or reinsurer/s assume a predetermined and fixed share in all business written;

o) 'Retrocession' means the transaction whereby a reinsurer cedes to another insurer or reinsurer all or part of the reinsurance it has previously assumed;

p) 'Retention' means the portion of the risk which an insurer/reinsurer assumes for his own account;

q) “Reinsurance, for the purpose of these regulations, means the insurance of part of insurer’s risk by another insurer/Indian Reinsurer/foreign reinsurer branch/Cross border reinsurer who accepts the risks for a mutually acceptable premium.

r) 'Reinsurance contract' is the legally binding document on all the parties that provides a complete, accurate and definitive record of all the terms and conditions and other provisions of the reinsurance contract;

s) “Specialised Insurance” for the purpose of these regulations are those insurances

   i) which are relatively new in the Indian insurance/reinsurance market and/or
   ii) which are significantly different from the traditional insurances by virtue of the associated risks and/ or

iii) for which the required level of expertise is not adequately available in the Indian insurance/reinsurance market and
iv) which are unable to garner adequate reinsurance support from Indian reinsurance market

t) 'Treaty' means a reinsurance arrangement between the insurer and the reinsurer, usually for one year or longer, which stipulates the technical particulars and financial terms applicable to the reinsurance of some class or classes of business;

u) Words and expressions used and not defined in these regulations but defined in the Insurance Act, 1938 (4 of 1938) of or the General Insurance Business Nationalisation Act, 1972 (57 of 1972) or Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), rules made thereunder shall have the meanings respectively assigned to them in those Acts or rules as the case may be.

3. Reinsurance Arrangements: Objectives & Procedures

(1) Objectives

The Reinsurance Programme of every Indian Insurer/ Indian Reinsurer/Foreign reinsurance branch shall be guided by the following objectives to:

(a) Maximize retention within the country;
(b) Develop adequate capacity;
(c) Secure the best possible protection for the reinsurance costs incurred;
(d) Simplify the administration of business.

(2) Retention policy

a) Every Indian insurer/Indian reinsurer/foreign reinsurance branch shall maintain the maximum possible retention commensurate with its financial strength, quality of risks and volume of business.

b) Every Indian insurer/Indian reinsurer/ foreign reinsurance branch shall formulate a suitable retention policy for each insurance segment. The policy may list out factors and parameters considered for fixation of retention limits.

c) The Authority may require an Indian insurer/Indian reinsurer/foreign reinsurance branch to justify its retention policy and may give such directions as considered necessary in order to ensure that the Indian insurer/ Indian reinsurer/foreign reinsurance branch is not merely fronting for a Cross Border Reinsurer.

(3) Obligatory Cession: Every insurer shall cede such percentage of the sum assured on each policy for different classes of insurance written in India to the

Indian reinsurer/s as may be specified by the Authority in accordance with the provisions of Part IVA of the Insurance Act, 1938.

(4) Reinsurance program

a) The reinsurance programme of every Indian insurer/Indian reinsurer/ foreign reinsurance branch shall commence from the beginning of every financial year.
b) Every Indian insurer/Indian reinsurer/ foreign reinsurance branch shall submit to the Authority, his board approved reinsurance programme along with retention policy for the forthcoming year, 45 days before the commencement of the financial year.
c) If any amendment is made in the Reinsurance program subsequent to it being filed with the Authority, the Indian insurer/ Indian reinsurer/ foreign reinsurance branch shall file with the Authority, the revised Reinsurance Program, together with the approval of the Board of Directors within 15 days of holding the Board meeting.
d) The reinsurance program of the Indian insurer/Indian reinsurer/foreign reinsurer branch shall include but not limited to, the following
    i) The parameters considered for fixation of retention limits for all Insurance Segments
    ii) Proposed retention limits on all Insurance Segments along with corresponding retention limits in the previous year
    iii) Levels of Net retention ratio on all Insurance Segments for previous 3 years
    iv) Insurance Segment wise actual premium income for the last financial year and the projected premium income for the forthcoming financial year.
    v) Structure of Reinsurance program with details of Proportional arrangements for each Insurance Segment(including treaty capacity, retention limits, Estimated premium, Reinsrurance commission, Event limits etc) and Non-proportional Arrangements (incl EGNPI, Cover limits, Deductible, XL premium, Reinstatement provisions etc)
    vi) Statement of Reinsurance cost (in terms of quantum as well as percentage to GWP) giving details of Gross Written premium, premium ceded on proportional arrangements and ceded on non-proportional arrangements. The statement shall include projected costs for the forthcoming year and the actual costs for the previous 2 years.
    vii) Notwithstanding what is stated above, the Authority, if it considers necessary, may direct the Indian insurer/Indian reinsurer/foreign reinsurer branches to carry out changes to the reinsurance programme filed with it and the Indian insurer/Indian reinsurer/foreign reinsurance branch shall incorporate such changes forthwith in their reinsurance programme and submit the revised program to the Authority.

(5) The Indian insurers/Indian reinsurers/foreign reinsurer branches shall ensure that the reinsurance arrangements in respect of catastrophe accumulations, are adequate, by using various realistic disaster scenario testing methods. The stress test reports shall be approved by their Board of Directors. The basis on which the quantum of catastrophe protection is purchased for the forthcoming year may be detailed in the RI program. A synopsis of the report, after approval of the board shall be filed with the Authority along-with the reinsurance programme within 15 days of holding the Board meeting.

(6) Every Indian insurer/Indian reinsurer / Foreign Reinsurer Branch shall within 30 days of the commencement of the financial year, file with the Authority a copy of every reinsurance treaty contract wordings and excess of loss cover note in respect of that year together with the list of all reinsurers, their ratings and their shares in the proportional & non-proportional reinsurance arrangement.

(7) The Authority may call for further information or explanations in respect of the reinsurance programme of an Indian insurer/Indian reinsurer/foreign reinsurance branch and may issue such direction, as it considers necessary.

(8) Every Indian Insurer/Indian reinsurer/foreign reinsurance branch shall file with the Authority any new reinsurance arrangement, giving full details, documentation, reasons for such an arrangement together with the approval of the Board of Directors within 15 days of holding the Board meeting. The Indian insurer/Indian reinsurer/foreign reinsurance branch shall further ensure that the renewal of such a reinsurance arrangement coincides with financial year.

(9) Cross Border Reinsurers: Eligibility Criteria

Every Indian Insurer/Indian reinsurer/foreign reinsurance branch shall place their reinsurance business outside India with only those cross border reinsurers based on the following eligibility criteria

a) The cross border reinsurer is a legal entity in its home country and regulated and supervised by its home regulators/ supervisors
b) The financial strength, quality of the management and adequacy of technical reserving methodologies of the cross border reinsurer should be monitored by its supervisory authority, in the home country.
c) The Cross Border reinsurer has over a period of the past five years counting from the year preceding for which the business has to be placed, continuously enjoyed a credit rating of at least BBB (with Standard & Poor) or equivalent rating of any other international rating agency.

d) The Cross Border Reinsurer should be registered and/or certified in a national regulatory environment with which the Government of India has signed Double Taxation Avoidance Agreement.
e) The Cross Border Reinsurer has a solvency margin/capital adequacy not lesser than as stipulated by the home regulator for previous three continuous years.
f) The past claims performance of the cross border reinsurers is found to be satisfactory.
g) Any other requirements as stipulated by the Authority from time to time.

Reinsurance placements with Cross Border Reinsurers, not fulfilling the above stated eligibility criteria shall require prior approval of the Authority. Under such circumstances, the insurer/Indian reinsurer/foreign reinsurance branch shall, seek approval from the Authority stating sufficient reasons and justifications as to why they propose to place reinsurance business with a cross border reinsurer which does not fulfill the stated eligibility criteria. Notwithstanding anything stated above, all such placements shall be reported to the company's board and copy of the board resolutions be sent to the Authority.

(10) Based on necessity, the Indian Reinsurer shall organise domestic pools for reinsurance surpluses in consultation with all Indian insurers and / or foreign reinsurer branches on matters like objective, basis, limits and terms which are fair to all stakeholders. The arrangements so made shall be submitted to the Authority within three months of the formation of such pools, for approval. The Authority, wherever necessary, shall also advise the Indian reinsurer to organise domestic pools for reinsurance surpluses. These regulations shall equally be applicable for all reinsurance arrangements of the pool. The pool Administrator shall submit the returns, details of Reinsurance arrangement, statements on the performance of the pool, in the manner and periodicity as stipulated by the Authority from time to time.

(11) Surplus over and above the domestic reinsurance arrangements insurance segment wise can be placed by the Indian insurer/Indian Reinsurer/ Foreign reinsurer branch, independently with any of the cross border reinsurers complying with regulation 3(9) subject to the following

a) **Proportional Reinsurance arrangements :** Proportional Reinsurance placements under any insurance segment, with a Cross border reinsurer, as a percentage of total proportional reinsurance premium ceded abroad, in that insurance segment shall not exceed the limits specified in column B of the following table
b) **Non-Proportional Reinsurance arrangements** : Non-Proportional Reinsurance placements under any insurance segment, with a Cross border reinsurer, as a percentage of total non- proportional reinsurance

premium ceded abroad, in that insurance segment shall not exceed the limits specified in column C of the following table.

c) **Overall Reinsurance placements:** Overall Reinsurance placements (both proportional and non-proportional), under all insurance segments, with a Cross border reinsurer, as a percentage of total reinsurance premium ceded abroad, shall not exceed the limits specified in column D of the following table.

d) **Limits for Foreign Reinsurer Branches:** A foreign Reinsurer Branch shall not cede more than 50% of its total reinsurance placements made outside India with its parent company. Nonetheless, the placements of reinsurance business with any cross border reinsurer other than the parent company shall be in line with the following table.

A	***B***	***C***	***D***
Rating of Reinsurers (as per Standard & Poor and applicable to other equivalent international rating agencies)	***Limit of cession allowed under Regulation 3(11(a))***	***Limit of cession allowed under Regulation 3(11(b))***	***Limit of cession allowed under Regulation 3(11(c))***
BBB of Standard & Poor	**10%**	**10%**	**20%**
Greater than BBB and upto & including AA of Standard & Poor	**15%**	**15%**	**25%**
Greater than AA of Standard & Poor	**20%**	**20%**	**30%**

Where it is necessary in respect of specialised insurance to cede a share exceeding the limits specified under regulation 3(11), to any particular cross border reinsurer, the Indian insurer/Indian reinsurer/foreign reinsurance branch shall seek specific approval of the Authority giving reasons for such cession.

12. Order of Preference: Every Indian Insurer, in order of preference, shall offer for participation in its facultative and treaty surpluses;

a) To the Indian re-insurer and then to those granted certificate of registration as per regulation 4 (a) of the IRDAI (Registration and Operations of Branch offices of Foreign Reinsurers other than Lloydós) Regulations, 2015 and 8(a) of the IRDAI (Lloydós India) Regulation 2016.

b) To those granted certificate of registration as per regulation 4 (b) of the IRDAI (Registration and Operations of Branch offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 and 8(b) of the IRDAI (Lloyd's India) Regulation 2016

c) To the offices of foreign reinsurers set up in special economic zone, only after having offered to all entities in (a) and (b) above

d) The balance, if any, may then be offered to Indian Insurers and cross border reinsurers.

13) Every Indian insurer/Indian reinsurer/foreign reinsurance branch shall be required to submit to the Authority information and returns relating to its reinsurance transactions in such forms and manner as the Authority may specify from time to time or require together with its annual accounts.

4. Inward Reinsurance Business

(1) Every Indian insurer/Indian reinsurer/foreign reinsuer branch wanting to write inward reinsurance business shall have a well-defined underwriting policy approved by its Board of Directors for underwriting inward reinsurance business.

(2) The Indian insurer/Indian reinsurer/foreign reinsurer branch shall file with the Authority, at least forty five days before the commencement of each financial year, its inward reinsurance underwriting policy stating the classes of business/insurance segments, geographical scope, underwriting limits and profit objective

(3) The Indian insurer/Indian reinsurer/foreign reinsurer branch shall ensure that decisions on acceptance of inward reinsurance business are made by persons with necessary knowledge and experience.

(4) The Indian insurer/Indian reinsurer/foreign reinsurer branch shall also file with the Authority any changes to the inward reinsurance underwriting policy as and when a change is made duly approved by its Board of Directors.

5. Outstanding Loss Provisioning

1) Every Indian insurer/Indian reinsurer/foreign reinsurer branch shall make outstanding claims provisions for every reinsurance arrangement accepted on the basis of loss information advices received from Brokers/Cedants and where such advices are not received, on an actuarial estimation basis.

2) In addition, every Indian insurer/Indian reinsurer/foreign reinsurer branch shall make an appropriate provision for incurred but not reported (IBNR) claims on its reinsurance accepted portfolio on actuarial estimation basis

6. Power of the Authority to issue clarifications:

In order to remove any difficulties in respect of the application or interpretation of any of the provisions of these Regulations, the Chairperson of the Authority may issue appropriate clarifications from time to time.