

Guidelines on Cross Border Reinsurers

Ref: IRDAI/NL/GDL/RIN/017/01/2016

Date: 19-01-2016

1. Introduction

The Authority had vide Circular ref IRDA/NL/GDL/RIN/015/01/2012 dated 06-01-2012 issued **Guidelines on submission of information on Cross Border Reinsurers not having any physical presence in India and do reinsurance business with Indian insurance companies.**

The above guidelines are revised herewith in order to make it aligned with the amendments in the Insurance Act 1938, and the regulatory prescriptions made by the Authority with respect to Registration of Branch Office of Lloyds and other Foreign Reinsurers. **The revision is being made in order to streamline the regulatory process with respect to cross border reinsurers.**

These guidelines are issued by the Insurance Regulatory and Development Authority (IRDA) under the powers granted to it under Section 14 of IRDA Act, 1999.

These guidelines shall be applicable to all Indian general insurance companies (incl AICL & ECGC), Stand-alone health insurance companies, Indian Reinsurers, Exempted Insurers, Branches opened in India by Lloyd's, Branches opened by other foreign reinsurers and reinsurance brokers.

The Authority vide these guidelines discontinues with the existing process of annual allotment of UIN to the cross border reinsurers. However, the cross border reinsurer has to submit an information sheet to the Authority, through an insurer, every year, in the manner specified in the guidelines. The insurer shall file the information sheet through an online portal. A filing reference number shall be created automatically, in the on line portal, on successful filing of the Cross Border Reinsurers information sheet.

These guidelines supersede the existing guidelines issued by the Authority vide Circular ref IRDA/NL/GDL/RIN/015/01/2012 dated 06-01-2012, on cross border reinsurers.

2. Definitions

"**Cross Border Reinsurers (CBR)**" means those reinsurers who do not have any physical presence in India and do reinsurance business with Indian insurance/reinsurance companies.

"**Insurer**" For the purpose of these guidelines insurer means, all Indian General Insurance companies including ECGC & AICL, stand-alone health insurance companies, Exempted Insurers, Indian Reinsurance companies registered with the IRDAI and Branches of Lloyds and other Foreign Reinsurance companies, who have been licensed by IRDAI to set up branch offices in India.

"**Financial Year**" means financial year in India starting from 1st April to 31st March.

3. Eligibility criteria

All Cross Border Reinsurers shall necessarily comply with the following eligibility criteria-

- I. The CBR shall have over a period of the past five years, counting from the year preceding for which the business has to be placed, enjoyed a credit rating of at least BBB (with Standard & Poor) or equivalent rating of any other international rating agency.
- II. The past claims performance of the CBR should be satisfactory.
- III. The cross border reinsurer shall be a legal entity in its home country and regulated and supervised by its home regulators/ supervisors.
- IV. The cross border reinsurer is required to have a solvency margin/ capital adequacy as stipulated by the home regulator/supervisor.
- V. 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.

- VI. 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.

4. Filing of information sheet

- i) The cross border reinsurer planning to write reinsurance business shall file its information sheet (Annexure A) along-with necessary documents and enclosures with/through any insurer in whose Reinsurance program it proposes to participate, **before transacting reinsurance business with any of the Indian insurance /reinsurance companies for the Financial year.**
- ii) **The information sheet shall be submitted separately by each CBR branch/subsidiary/ Lloyd's syndicate/Incidental Syndicate.**
- iii) The insurer shall necessarily conduct the required due diligence, scrutinize the documents and ensure strict compliance with the eligibility criteria prescribed in these guidelines, before finally filing the documents with the Authority. The insurer, after due verification, shall file the same to the Authority with its forwarding letter, through the online portal provided in the IRDAI website. On successful submission of the requirements a Filing reference number shall be generated automatically in the online portal.
- iv) Once the documents are filed with the Authority for any particular CBR the same need not be filed again by other insurers during that financial year. The filing shall be valid for one year upto the end of the Financial Year.

5. Duty of the Insurer

- I. The insurer filing the CBR information sheet shall maintain all records and notes of such filings and reinsurance placements for the inspection of the Authority from time to time.
- II. The onus of placing reinsurance business with cross border reinsurers shall be on the Insurers. Before placing reinsurance business, it is the responsibility of insurer to ensure that the cross border reinsurers meet the requirements as specified by the Authority from time to time.
- III. It would be the duty of the insurers and the reinsurance intermediaries, to bring to the notice of the Authority, any material information as regards the cross border reinsurers that would impair the ability of the reinsurer to meet their commitments towards cedants.

- IV. Within 30 days of the commencement of the financial year, every Indian re/insurer shall submit a certificate of compliance (in Annexure B) confirming that all its reinsurance placements to cross border reinsurers are made only to those CBRs who comply with the eligibility criteria prescribed in these guidelines. This certificate is to be filed with the Authority along with submissions required to be made under regulation 3(6) of the IRDA (General Insurance-Reinsurance) Regulation 2013.

6. Placement with Cross Border Reinsurers not Compliant with Eligibility Criteria prescribed in the guidelines

- I. No insurer shall place any reinsurance business with CBRs not complying with the Eligibility criteria prescribed in the guidelines without prior approval of the Authority.
- II. In case any Insurer, under certain circumstances, wants to place business with CBRs not complying with the Eligibility criteria prescribed under these guidelines, shall make a specific request to the Authority sufficiently justifying its recommendation for approval.
- III. Such placements need to have approval of the insurer's board. In case, the Board approves the proposed placements, prior to making a request to the Authority, a copy of the approval of the Board shall be submitted to the Authority, along with such requests. If the matter is not placed before the board prior to making a request to the Authority, the insurer shall submit the copy of board approval at the time of making an online filing for generating reference number, after receiving approval letter from the Authority.
- IV. Prior to making reinsurance placement with the CBR the insurer shall submit the information sheet (duly signed by the Authorised official of the CBR) along with the following documents.
- a) Copy of Registration certificate
 - b) Copy of financial statements for previous 3 years.(In case the CBR has been allotted UIN/ approval by the Authority in the previous Financial year, submission of latest year's financial statements would be sufficient)
 - c) Credit rating certificate issued by the rating agency along with rating rationale
 - d) Details of existing relationship with Indian Insurer/Reinsurer (if any)
 - e) The quantum of business the CBR has done with Indian Insurers/ Reinsurer during the previous 3 yrs(if any)
 - f) Information on their past claims settlement experience (if available).

- g) Copy of board approval for such request
 - h) Specific recommendation of the insurer justifying as to why they would like to make Reinsurance placements with the referred CBR. Such recommendation shall necessarily be made by the Head of Reinsurance Department of the Insurer.
 - i) Any other relevant document or information sought by the Authority from time to time.
- V. Mere requests, with general/vague recommendations, shall not be considered by the Authority. Mere submission of recommendations to the Authority shall not be construed as automatic approval of the Authority
- VI. The Authority, based on merits of each such request, may or may not grant approval for such requests.
- VII. The Approval, if granted, shall be valid for one financial year only during which the request is made. The CBR shall become eligible for transacting reinsurance business with Indian Insurers subsequent to the approval. The approval shall be an offline process and the filing online shall be made only after receipt of specific written approval from the Authority for the Financial year under consideration.
- VIII. All placements made with the Cross border reinsurers other than those complying with these guidelines shall be placed before the company's board for their approval/ratification.
7. Notwithstanding anything contained in these guidelines, the insurers shall comply with the Insurance Act and other applicable regulations issued by the Authority from time to time.
8. The above guidelines shall be effective for all reinsurance business transactions commencing/ effective from 1st April 2016

Suresh Mathur
(Sr. Joint Director)

Attachments: Annx :A & B