

Draft
INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA
NOTIFICATION

Hyderabad, the ___th July, 2022

Insurance Regulatory and Development Authority of India (Expenses of Management of Insurers transacting General or Health Insurance business) Regulations, 2022

F.No. IRDAI/Reg./___/.—In exercise of the powers conferred by clause (je) of sub-section (2) of Section 114A read with Section 40B and 40C of the Insurance Act, 1938 (4 of 1938), the Authority, in consultation with the Insurance Advisory Committee, hereby makes the following regulations, namely-

Part-I

1. Short title and Commencement

- (1) These regulations may be called the Insurance Regulatory and Development Authority of India (Expenses of Management of Insurers transacting General or Health Insurance Business) Regulations, 2022.
- (2) They shall come into force from the date of their publication in the Official Gazette.
- (3) The Regulations shall be applicable to Insurers transacting General Insurance or Health Insurance business.

2. Definition

(1) In these regulations, unless the context otherwise requires –

- (i) **“Act”** means the Insurance Act, 1938 (4 of 1938).
- (ii) **“Authority”** means the Insurance Regulatory and Development Authority of India established under sub- section (1) of Section 3 of Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).
- (iii) **“Charges”** means charge against profit such as income tax and other taxes like Goods and service tax as borne by the insurer and other charges and / or expenses which are levied against the profit.
- (iv) **“Duration of Business”** means the duration of an insurer’s business reckoned from the beginning of the financial year of commencement of business if the date of commencement is in the first half of the financial year, and from the beginning of the immediately succeeding financial year if the date of commencement is in the second half of the financial year.
- (v) **“Expenses of Management”** shall include

- (a) all expenses in the nature of operating expenses,
- (b) commission, brokerage/remuneration, reward to the insurance agents, intermediaries and insurance intermediaries,
- (c) commission & expenses on reinsurance inward, which are charged to Revenue Account.

However, it shall not include the Charges as defined in these Regulations.

- (vi) **“Expense rate”** for the purpose of these regulations, expense rate shall be the average of percentage of actual expenses of management on gross written premium in India for the preceding three financial years.
- (vii) **“Market Share”** shall be share of the gross direct premium of the insurer written in India in proportion to the total gross direct premium of all the insurers transacting general and health insurance business in India in a financial year.

- (2) All words and expressions used herein and not defined, but defined in the Insurance Act, 1938 (4 of 1938) or in the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), or in any Rules or Regulations made thereunder, shall have the meaning respectively assigned to them in those Acts or Rules or Regulations.

Part –II

Limitation of Expenses of Management in General Insurance Business or Health Insurance Business

- 3. No insurer carrying on General Insurance Business or Health Insurance Business in India, shall spend an amount as expenses of management exceeding the amount computed as lower of **30 percent or Expense Rate**, multiplied by gross premium written in India in that financial year.

Provided that the amount of commission or other remuneration paid to insurance agents and insurance intermediaries in respect of their business transacted in the financial year is as allowed by the Authority from time to time.

Part- III

4. Additional allowance

In addition to expenses of management limit as specified under Regulation 3, the insurer shall be allowed the following additional allowance: -

(1) Head Office Expenses

An insurer having his principal place of business in India and having branch offices outside India shall be allowed an additional allowance towards share of Head Office expenses.

Provided such allowance shall not exceed 10 per cent of the gross premium income written outside India through such branch during the year.

(2) Expenses incurred towards Rural sector, Pradhan Mantri Suraksha Bima Yojana, Pradhan Mantri Jan Arogya Yojana and Pradhan Mantri Fasal Bima Yojana business

An insurer reporting growth in the gross direct premium sourced from Rural sector, PMSBY, PMJAY and PMFBY business shall be allowed an additional allowance.

Provided allowance shall not exceed 10 per cent of the incremental premium over the previous financial year, sourced from the rural sector and the above specified schemes.

Provided further that in no case, such allowance shall exceed the actual expenses of management incurred for the rural sector and the above specified schemes during the previous financial year.

‘**Rural sector**’ shall be as per definition given under the Regulations notified by the Authority from time to time.

(3) Expenses incurred towards the Insurtech

An insurer shall be allowed an additional allowance towards the Insurtech expenses incurred to the extent of 20 percent of such expenditure.

(4) Expenses incurred towards the IndAS

An insurer shall be allowed an additional allowance for the expenses incurred towards the implementation of IndAS to the extent of 100 percent of such expenditure.

(5) Expenses incurred towards the Insurance Awareness

An insurer shall be allowed an additional allowance for the expenses incurred towards the insurance awareness to the extent of 2 percent of expenses limit computed as per Regulation 3.

Part – IV

Board approved policy and business plan

5. Every insurer shall have a well-documented policy approved by its Board on annual basis, which shall, **at the minimum**, cover:

- (i) Measures to bring cost effectiveness in the conduct of business and reduction of the expenses of management on an annual basis;
- (ii) Manner of transfer of benefits, arising from reduction of expenses and/or from the directly sourced business to the policyholders by way of reduction in the premium;
- (iii) Manner in which the compliance with computation of additional allowance as per Regulation 4 shall be ensured;
- (iv) Manner of allocation and apportionment of expenses of management amongst various business segments including the following parameters:
 - a) Expenses which shall be allocated;
 - b) Basis of allocation;
 - c) Expenses which shall be apportioned;
 - d) Basis of such apportionment;
- (v) Manner in which the compliance with the policy shall be ensured.

Provided that any revision in the policy along with its implication on various segments shall be disclosed suitably under notes to accounts forming part of financial statements.

6. Business Plan:

- (i) Every insurer shall formulate a business plan in advance on an annual basis, which shall be approved by the respective Board. The plan shall, at the minimum, clearly state the following-
 - (a) the projected requirements of capital during the said financial year;
 - (b) projection of solvency margin on a quarterly basis;
 - (c) the projection of expense of management (in rupees as well as percentage of gross premium written in India) and the compliance or otherwise with the limits of expenses of management.
- (ii) The Business plan shall be monitored by the Board at regular intervals for compliance with the expenses of management limit and infusion of the additional capital in line with business plan.

Part-V

Return of Expenses of Management

7. All insurers transacting General insurance or Health Insurance business, at the expiration of each financial year, shall prepare with reference to that year, Return of Expenses of Management as per the format specified under Schedule I. The Return shall be signed by the Chief Executive Officer, the Chief Financial Officer and Chief Compliance Officer of the Insurer.

8. The Return shall be certified by the statutory auditors of the Insurer and the

certificate duly signed by at least one of the statutory auditor shall be filed in format given in Schedule- II.

9. The Return along with the statutory auditor's certificate shall be reviewed by the Audit Committee prior to being placed for approval of the Board of the insurer.
10. The return of expenses of management and specified documents duly adopted by the Board along with the certified true copy of minutes of the meetings wherein the committee(s) and/or Board of the insurer has approved these documents, shall be filed with the Authority along with returns indicated in sub-section (1) of Section 15 of the Act in the manner and within the time specified therein.

Part- VI

Power to Exempt and Action for Non-compliance

11. Powers to Exempt

The Authority based upon a representation received from the insurer, may exercise forbearance to the insurer, whose duration of business is not more than 10 years or till such time as it attains a market share of at least 1.5 percent in a financial year, whichever is earlier.

Provided that no such direction shall be issued by the Authority unless a representation detailing the business plan and time period required for compliance with the Regulations has been furnished to the Authority.

12. (1) The Insurers shall ensure that its expenses of management are within the allowable limit as per Regulation 3. Where the insurer has violated the limits of expenses of management and has not been granted forbearance under these Regulations, the insurer shall: -
 - (i) maintain additional solvency throughout the succeeding financial year for: -
 - (a) the first year of breach: Additional 0.005 solvency ratio for every percent increase in actual expenses of management over the allowable expenses of management.
 - (b) the subsequent years of breach: Additional 0.01 solvency ratio for every 1 percent increase in actual expenses of management over the allowable expenses of management.

and
 - (ii) charge the excess of actual expenses over the allowable expenses to Shareholders' Account.
- (2) Where the deviation between the actual expenses and the projected

expenses as per the Business plan formulated in terms of Regulation 6 is more than 10 percent and Insurer has not maintained additional solvency, no variable pay shall be payable to Managing Director (MD) / Chief Executive Officer (CEO) / Whole-Time Directors (WTD) and Key Management Persons (KMPs) for the said financial year. The Nomination and Remuneration Committee shall oversee the compliance of the same.

13. Additional Action for Non-compliance

- (1) Recurrence of violation of the provisions of these regulations or the directions issued by the Authority in this regard may entail one or more of the following additional actions:
 - (i) Restriction on performance incentive to Managing Director (MD) / Chief Executive Officer (CEO) / Whole-Time Directors (WTD) and Key Management Persons (KMPs);
 - (ii) Restriction on opening of new places of business;
 - (iii) Penal action under section 102 of the Act;
 - (iv) Removal of Managerial Personnel and / or appointment of Administrator;
 - (v) Any other action as specified in the Act.

- (2) The Authority, apart from taking action as enumerated in sub regulation (1), may also direct the insurer to not underwrite new business in one or more segments in case of persistent violation of these Regulations.

Notwithstanding such directions, the insurer shall continue to service the existing policyholders in such segments.

14. Power to remove difficulties: - In order to remove any difficulties in respect of the application or interpretation of any of the provisions of these regulations, the Chairperson may issue appropriate clarification or circular or direction or guidelines, as and when required, under any of the provisions of these regulations as deemed necessary.

15. Repeal and Savings: -

(1) Insurance Regulatory and Development Authority of India (Expenses of Management of Insurers transacting General or Health Insurance Business) Regulations 2016 shall be repealed from the date these Regulations come into force.

(2) Unless otherwise provided by these Regulations, anything done or any action taken or purported to have been done or taken in respect of the Regulations mentioned in sub-regulation (1) shall be deemed to have been done or taken under the corresponding provisions of these regulations.

Chairman

Return of Expense of Management
(refer Regulation7)

S. No.	Particulars	Amount (Rs in Lakhs)
1.	Gross Premium written in India (GWP)	
2.	Actual Expenses A. Operating Expenses B. Commission and other Remuneration	
3.	Total Actual Expenses	
4.	Total Allowable Limits	
	<u>A. Allowable expenses as per Reg. 3</u>	
	<u>B. Additional Allowance</u> (a) as per sub reg (1) of Reg. 4 (b) as per sub reg (2) of Reg. 4 (c) as per sub reg (3) of Reg. 4 (d) as per sub reg (4) of Reg. 4 (e) as per sub reg (5) of Reg. 4	
5.	Difference (3-4)	
6.	Overall Excess (Actual expenses more than allowable limits)- Charged to Shareholders Accounts.	

It is hereby certified that

- a) the calculations given above (including calculation of additional allowance) are in accordance with the IRDAI (Expenses of Management of Insurers transacting General or Health Insurance Business) Regulations, 2022;
- b) the company has complied with the provisions pertaining to formulation and implementation of the Board approved policy and business plan as specified under Regulation 5 & 6 of the IRDAI (Expenses of Management of Insurers transacting General or Health Insurance Business) Regulations, 2022; and
- c) the company has complied with the Regulation 12 of the IRDAI (Expenses of Management of Insurers transacting General or Health Insurance Business) Regulations, 2022.

Date:

Chief Executive
Officer

Chief Financial
Officer

Chief
Compliance
Officer

Place:

(refer Regulation 8)

Certificate on Return of Expenses of Management prepared under Regulation of the Insurance Regulatory and Development Authority of India (Expenses of Management of Insurers Transacting General or Health Insurance Business) Regulations, 2022

To the Board of Directors of..... (*name of the Insurer*)

I/We..... (Name of the Auditor), the statutory auditors of (*name of the Insurer*) (hereinafter “the Insurer”) have examined the attached Return of Expenses of Management for the financial year ended (*specify the date*) (hereinafter “the Returns” and specified annexures thereto), prepared by the Insurer pursuant to Regulation 7 of the Insurance Regulatory and Development Authority of India (Expenses of Management of Insurers Transacting General or Health Insurance Business) Regulations, 2022 (hereinafter “the Regulations”).

The management of the Insurer is responsible for preparation of the Return. The management of the Insurer is also responsible for preparation and maintenance of the proper books of account and such other relevant records as prescribed under relevant laws and Regulations. This responsibility includes designing, implementing and monitoring of internal controls relevant to the preparation and maintenance of such books of account and records and the particulars furnished in the aforesaid Return.

The management of the Insurer is also responsible for compliance with, *inter alia*, the requirements of the Regulations. This includes the responsibility to design and consistently implement a Policy as detailed in Regulation 5, duly approved by its Board of Directors, as envisaged in the aforesaid Regulations.

My/Our responsibility is to verify the aforesaid Return of Expenses of Management. We have carried out our verification in accordance with the Guidance Note on Audit Reports and Certificates for Special Purposes, issued by the Institute of Chartered Accountants of India.

Based on our aforesaid verification and to the best of our knowledge and belief and according to the information, explanations and representations given to us by the management of the Insurer, I / we hereby certify that:

1. The computation of Expenses of Management as contained in the attached Return are in accordance with Regulation of the Insurance Regulatory and Development Authority of India (Expenses of Management of Insurers Transacting General or Health Insurance Business) Regulations, 2022.

2. The apportionment and allocation of management expenses amongst various business segments is in accordance with the policy laid down in this regard by the Insurer.
3. The apportionment, allocation and accounting of expenses relating to fintech/insurtech, IndAS, Insurance awareness, etc. are correct as per books and records maintained by the insurer and as per the generally accepted accounting principles.
4. The Insurer has complied with the provisions of Regulation 12.

Place of signature	For XYZ & Co.
Date	Chartered Accountants
	Firm's Registration Number:
	(Signature) (Name of the Member)
	(Designation) Membership Number

**(Please furnish the details of deviation/exception, if any observed).*
