IRDAI issues draft IRDAI (Reinsurance) Regulations, 2018

January 9, 2018

In brief

The Insurance Regulatory and Development Authority of India (**IRDAI**) has issued the draft IRDAI (Reinsurance) Regulations, 2018 (the **Draft Regulations**) on 05 January, 2018. The Draft Regulations have been issued considering the recommendations made by the Expert Committee on Reinsurance constituted by IRDAI. The Draft Regulations are proposed to come into effect from 01 April 2018.

The Draft Regulations seek to bring out significant changes to the existing regulatory framework/ regulations relating to reinsurance particularly with reference to the categories of reinsurers, order of preference, retention limits, etc.

IRDAI has requested for stakeholders' comments/ suggestions on the Draft Regulations by 20 January, 2018.

The ensuing paragraphs discuss key changes proposed by the Draft Regulations.

In detail

Changes to existing regulations

The Draft Regulations seek to repeal the following regulations:

- IRDAI (General Insurance - Reinsurance) Regulations, 2016 (**General Reinsurance Regulations**); and
- IRDAI (Life Insurance - Reinsurance) Regulations, 2013 (**Life Reinsurance Regulations**).

It also proposes certain key changes to the IRDAI (Registration and Operation of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 (**FRB Regulations**) and IRDAI (Lloyd's India) Regulations, 2016 (**Lloyd's Regulations**).

Key changes to FRB Regulations and Lloyd's Regulations

The Draft Regulations seek to do away with different categories (i.e. Category I and Category II) of applicants, currently mentioned under the FRB Regulations and Lloyd's Regulations. It is proposed that an applicant shall make a requisition for registration application for reinsurance business wherein the branch office of a foreign reinsurer (**FRB**) shall maintain a minimum retention of 50% of the Indian reinsurance business.

Reinsurance Programme

The Draft Regulations lay down the objectives to be kept in mind in while framing the reinsurance programme. It also lays down -

(a) detailed requirements relating to retention policy;

(b) procedure for approval of reinsurance arrangements;

(c) factors/ principles to be considered while entering into reinsurance arrangements;

(d) catastrophic risk protection related requirements; and

(e) maintenance of specified records.

The existing requirement of obligatory cession with Indian reinsurers provided under the General Reinsurance Regulations has not been specifically discussed in the Draft Regulations.

Eligibility criteria for a Cross Border Reinsurer (CBR)

As per the Draft Regulations, an Indian insurer can place its reinsurance business with any CBR, which satisfies the following eligibility criteria –

(i) The CBR is a legal insurance/ reinsurance entity in its home country, and has been regulated and supervised by its home country regulators for the past three continuous years.

(ii) The CBR has a minimum credit rating of BBB from Standard and Poor (**S&P**) or equivalent rating from an international rating agency for immediately preceding three years.

(iii) The home country of the CBR has signed a Double Taxation Avoidance Agreement with India.

(iv) The CBR has solvency margin or capital adequacy of not less than as stipulated by the home country regulators for the past three continuous years.

The IRDAI may, on a case to case basis, consider relaxation of criteria under (ii) and (iii) on applications made by cedants. To place any business with CBRs that do not meet the above criteria, a specific prior approval of IRDAI would be required.

Procedure for reinsurance placements

The Draft Regulations seek to replace the existing provisions relating to "order of preference" mentioned in the FRB Regulations by providing the following procedure for reinsurance placements.

(I) Obtaining best terms for cessions

(a) Every cedant[1] shall obtain best terms for its reinsurance coverage requirements at least from -

   (i) Indian reinsurers that have been transacting business for at least the past three continuous years,

   (ii) at least three from FRBs.

(b) In case of non-receipt of response from the above entities and for commercial reasons, the cedant may obtain best terms for its reinsurance protection requirements from:

   (i) IIOs of foreign insurers or reinsurers transacting reinsurance business and having a minimum credit rating of A- from S&P or equivalent rating from any other international financial and credit rating agencies.

   (ii) CBRs with a minimum credit rating of A- from S&P or equivalent rating from any other international financial and credit rating agencies.

(c) No cedant, except through the FRBs, shall obtain best terms directly from the CBRs, which are group companies of FRBs, without prior IRDAI approval;

(d) No cedant shall seek any best term from any Indian insurer transacting direct insurance business.

(II) Offer for participation

(a) Every cedant shall offer best terms, for participation in the following order of preference:

   (i) To Indian reinsurers who have been transacting business for at least three continuous years and then to other Indian reinsurers;

   (ii) FRBs and thereafter to the IIO or CBR which provided lead terms with meaningful capacity of not less than 5% for treaties and 10% for facultative reinsurance business;

   (iii) To IIOs, other than those as in (ii) above, transacting reinsurance business and other Indian insurers;

   (iv) To CBRs, other than those as in (ii) above.

(b) No cedant, except through the FRBs, shall make a direct offer for participation to the CBRs, which are group companies of FRBs, without prior IRDAI approval.

(c) No cedant shall offer for participation to any Indian insurer, transacting direct insurance business, to lead on

[1] The Draft Regulations have proposed changes to the definition of "cedant". It is defined to mean an insurer who underwrites and issues an original, primary insurance policy to an insured and contractually transfers (cedes) a portion of the risk to a reinsurer. It is pertinent to note that unlike General Reinsurance Regulations and Life Reinsurance Regulations wherein the definition of 'cedant' included a retrocedant as well, the term "retrocedant" has been defined separately under the Draft Regulations.

any of its reinsurance placements.

The above procedure will not apply to:

(a) Retrocession requirements of Indian reinsurers, FRBs and IIOs.

(b) Inter-company arrangements of the Indian insurers transacting direct insurance business in respect of fire, engineering and marine hull insurance business.

(c) Reinsurance requirements of IIOs and Insurance Pools.

(d) Reinsurance requirements of Indian insurers transacting life insurance business.

However, Indian insurers, transacting life insurance business, shall endeavour to utilise Indian capacity before placing with the CBRs.

Cession limits

Reinsurance placements shall be subject to the following overall cession limits, which can be made by a cedant to any particular CBR

Rating of CBR from S&P or equivalent	Overall limit of all cessions of the cedant with a particular CBR
Greater than A+	20%
Greater than BBB+ and up to and including A+	15%
BBB and BBB+	10%

Domestic Insurance Pools

The proposals for an Insurance Pool could be initiated by any of Indian insurer and IRDAI may permit formation of domestic insurance or reinsurance pool(s) based on the proposal submitted with it. Such pool arrangements and reporting thereof would be subject to IRDAI's directions.

Alternative Risk Transfer (ART)

The term "ART" has been defined to mean structured reinsurance solutions that are tailored to specific needs and profile of an insurer or reinsurer. An Indian Insurer shall submit specific proposals on ART solutions to IRDAI, which after necessary examination and on being satisfied with the type of ART solutions, the risk transfer tests and other related matters may allow the ART proposal on a case to case basis by recording the basis and terms.

Inward reinsurance business

It is proposed that every Indian insurer (transacting direct insurance business) for writing inward reinsurance business shall put in place a well-defined underwriting policy (duly approved by the Board) and file with the IRDAI.

Key terms

The Draft Regulations propose changes to certain existing definitions in the General Reinsurance Regulations and Life Reinsurance Regulations. It also proposes to introduce new definitions of the terms like ART, Reinsurance Slip, Retrocedant, inclusion of "crop" as a separate Insurance Segment, Board, Exempted Insurer, International Financial Service Centre Insurance Office (**IIO**).

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

Our Offices

Ahmedabad

1701, 17th Floor, Shapath V,
Opp. Karnavati Club,
S G Highway,
Ahmedabad – 380051
Gujarat
+91-79 3091 7000

Bengaluru

6th Floor
Millenia Tower 'D'
1 & 2, Murphy Road, Ulsoor,
Bengaluru – 560 008
Karnataka
+91-80 4079 7000

Chennai

8th Floor
Prestige Palladium Bayan
129-140 Greams Road
Chennai – 600 006
Tamil Nadu
+91 44 4228 5000

Hyderabad

Plot no. 77/A, 8-2-624/A/1, 4th Floor, Road No. 10, Banjara Hills,
Hyderabad – 500034,
Telangana
+91-40 44246000

Kolkata

56 & 57, Block DN.
Ground Floor, A- Wing
Sector - V, Salt Lake
Kolkata - 700 091
West Bengal
+91-033 2357 9101/
4400 1111

Mumbai

PwC House
Plot No. 18A,
Guru Nanak Road(Station Road),
Bandra (West), Mumbai – 400 050
Maharashtra
+91-22 6689 1000

Gurgaon

Building No. 10, Tower - C
17th & 18th Floor,
DLF Cyber City,
Gurgaon – 122002
Haryana
+91-124 330 6000

Pune

7th Floor, Tower A - Wing 1,
Business Bay, Airport Road,
Yerwada, Pune – 411 006
Maharashtra
+91-20 4100 4444

For more information

Contact us at
pwctrs.knowledgemanagement@in.pwc.com

About PwC

At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 157 countries with more than 223,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com.

In India, PwC has offices in these cities: Ahmedabad, Bengaluru, Chennai, Delhi NCR (Gurgaon), Hyderabad, Kolkata, Mumbai and Pune. For more information about PwC India's service offerings, visit www.pwc.com/in

PwC refers to the PwC International network and/or one or more of its member firms, each of which is a separate, independent and distinct legal entity. Please see www.pwc.com/structure for further details.

Follow us on: