India's insurance regulator rings in a new regulatory framework for insurance businesses

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In a significant move, aimed at improving the efficacy and efficiency of the insurance sector and achieving the objective of "Insurance for All by 2047," the Insurance Regulatory and Development Authority of India (the "**IRDAI**"), at its recent board meeting, consolidated and amended a number of existing regulations and introduced some new regulations in order to enhance the ease of doing business in this sector.

These regulations aim to, *inter alia*, establish a digital public platform accessible to all stakeholders, increase coverage to rural and social sectors, establish robust frameworks for corporate governance of insurers, enhance the ease of conducting business, boost insurance penetration, etc. The IRDAI had, in February 2024, published an exposure draft of one such proposed regulation, the IRDAI (Registration, Capital Structure, Transfer of Shares & Amalgamation Insurers) Regulations, 2024 (the "**Registration Regulations**"), which consolidated seven (7) older regulations, whose impact we analyzed in a previous update.

Background

In addition to the Registration Regulations, the IRDAI has now also published the following consolidated regulations: (i) the IRDAI (Registration and Operations of Foreign Reinsurers Branches and Lloyd's India) Regulations, 2024 (the "**Foreign Reinsurer Regulations**"); (ii) the IRDAI (Insurance Products) Regulations, 2024 (the "**Insurance Products Regulations**"); (iii) the IRDAI (Rural, Social Sector and Motor Third Party Obligations) Regulations, 2024 (the "**Sectoral Obligations Regulations**"); (iv) the IRDAI (Protection of Policyholders' Interests, Operations and Allied Matters of Insurers) Regulations, 2024 (the "**Policyholder Protection Regulations**"); and (v) the IRDAI (Actuarial, Finance and Investment Functions of Insurers) Regulations, 2024 (the "**Actuarial Regulations**").

The new regulations introduced by the IRDAI are: (i) the IRDAI (Corporate Governance for Insurers) Regulations, 2024 (the "**Corporate Governance Regulations**"); and (ii) the IRDAI (Bima Sugam - Insurance Electronic Marketplace) Regulations, 2024 (the "**e-Marketplace Regulations**").

Additionally, the IRDAI has also introduced a circular de-notifying certain tariffs (the "**Tariff Circular**").

In this update, we analyse the key provisions that have become applicable to the insurance regulatory regime from April 1, 2024 as a consequence of these regulations and circulars.

Key Provisions

- **The Foreign Reinsurer Regulations**

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- The Foreign Reinsurer Regulations seek to encourage the structured advancement of the reinsurance industry in India and modify the IRDAI (Lloyd's India) Regulations, 2016 and the IRDAI (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015.

- They prescribe the eligibility criteria and applicable conditions for foreign applicant entities engaged in the reinsurance business along with the procedure for registration. They also make prescriptions for operational matters such as the geographical scope, appointment of key managerial personnel, outsourcing, solvency margin and reporting requirements.

- **The Insurance Products Regulations**

- The Insurance Products Regulations seek to establish a cohesive framework to empower insurers to promptly adapt to changing market needs, improve the ease of conducting business, and increase insurance coverage. They consolidate and modify the IRDAI (Micro Insurance) Regulations, 2015, the IRDAI (Minimum Limits for Annuities and other Benefits) Regulations, 2015, the IRDAI (Acquisition of Surrender and Paid-up Values) Regulations, 2015, the IRDAI (Health Insurance) Regulations, 2016, the IRDAI (Unit Linked Insurance Products) Regulations, 2019, and the IRDAI (Non-Linked Insurance Products) Regulations, 2019.

- The regulations prescribe principles that would apply to the design, pricing and development of insurance products. These include factors such as: (i) the needs of the customers; (ii) transparency and clarity in wordings, terms, coverage, etc.; (iii) fair premium rates; (iv) due consideration to relevant factors of risk appetite, capital availability, reinsurance costs, etc.; and (v) appropriate underwriting, pricing and claims management systems. In addition to these broad principles, specific provisions have been made applicable to life, general and health insurance products.

- The board of the insurer is required to: (i) formulate policies covering all areas of product design, underwriting, advertising and overall management constitute a product management committee; (ii) constitute a product management committee who will be responsible for implementing the foregoing policies; (iii) constitute an advertisement committee comprising some key management persons and one member from the product management committee to approve all advertisements.

- Several provisions present in the repealed regulations but not provided for in the Insurance Products Regulations are to be provided for separately by the IRDAI by way of circulars or under other applicable regulations.

- **The Sectoral Obligations Regulations**

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- The Sectoral Obligations Regulations seek to impose obligations on insurers towards rural and socially backward sectors and consolidate and modify the IRDAI (Obligation of Insurer to Rural and Social sector) Regulations, 2015 and the IRDAI (Obligation of Insurer in Respect of Motor Third Party Insurance Business) Regulations, 2015.

- They prescribe certain requirements to be complied with by all life, general and health insurers (except the Agriculture Insurance Company Limited and the Export Credit Guarantee Corporation of India) to underwrite minimum rural and social sector business within one (1) year of the coming into force of these regulations.

- Life insurers are required to grant coverage to a minimum of 10% of lives; general insurers are required to grant coverage to a minimum of 10% of dwellings, shops and vehicles; and health insurers are required to grant health and personal accident insurance coverage to a minimum of 10% of lives, in at least twenty-five thousand (25,000) *gram panchayats* (village council units).

- All life, general and health insurers are also required to grant coverage to a minimum of 10% of lives (as a proportion of total lives covered) in the "social sector," *i.e.*, to beneficiaries of government social security schemes.

- In addition, general insurers are also required to increase coverage to vehicles by a prescribed percentage over the previous financial year based on the insurer's market share in such preceding financial year, subject to each insurer underwriting a minimum of five thousand (5,000) goods carrying and passenger carrying vehicles each and one thousand (1,000) tractors.

- The allocation of the *gram panchayats*, and number of lives, dwellings, shops and vehicles amongst the insurers will be specified by the IRDAI.

- **The Policyholder Protection Regulations**

- The Policyholder Protection Regulations focus on the importance of implementing standardized procedures and optimal practices by insurers and distribution channels to meet their responsibilities to policyholders, such as addressing grievances and prioritizing policyholder-focused governance. These regulations consolidate and modify the IRDAI (Manner of Receipt of Premium) Regulations, 2002, the IRDAI (Places of Business) Regulations, 2015, the IRDAI (Fee for registering cancellation or change of nomination) Regulations 2015, the IRDAI (Fee for granting written acknowledgement of receipt of Notice of Assignment or Transfer) Regulations, 2015, the IRDAI (Issuance of e-Insurance Policies) Regulations, 2016, the IRDAI (Outsourcing of Activities by Indian Insurers) Regulations, 2017, the IRDAI (Protection of Policyholders' Interests) Regulations, 2017 and the IRDAI (Insurance Advertisements and Disclosure) Regulations, 2021.

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- These regulations make prescriptions relating to: (i) the protection of policyholder interests; and (ii) the operations of insurers.

- The board of the insurer is required to formulate and maintain a policy for the protection of policyholders' interests. The regulations provide for broad principles to be followed with respect to the terms and conditions of insurance policies and provide "Free-Look" periods to policyholders. Further, the regulations also prescribe procedures for claim settlement and grievance redressal. Furthermore, the regulations provide procedural requirements for: (i) advertisements; (ii) opening places of business within India; and (iii) outsourcing.

- **The Actuarial Regulations**

- The Actuarial Regulations consolidate and modify the IRDAI (Actuarial Report and Abstract for Life Insurance Business) Regulations, 2016, the IRDAI (Distributions of Surplus) Regulations, 2002, the IRDAI (Assets, Liabilities and Solvency Margin of Life Insurance Business) Regulations, 2016, the IRDAI (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016, the IRDAI (Appointed Actuary) Regulations, 2022, the IRDAI (Investment) Regulations, 2016, the IRDAI (Preparation of Financial Statements and Auditors' Report of Insurance Companies) Regulations, 2002, the IRDAI (Inspection and Fee for Supply of Copies of Returns) Regulations, 2015 and the IRDAI (Loans or Temporary Advances to Full Time Employees of the Insurers) Regulations, 2016.

- These regulations prescribe the governing principles of the actuarial, finance and investment functions of insurers, including: (i) reliance on sound actuarial principles; (ii) maintaining a minimum control level of solvency margin; (iii) maintaining accurate financial statements reflecting a true and fair picture; (iv) proper investment of funds to meet policyholder liabilities; and (v) ensuring that suitable and adequate resources are available with the insurer to carry out actuarial, finance and investment functions.

- The board of the insurer is required to formulate and maintain policies to govern the areas of actuarial, finance and investment functions such as the bonus distribution philosophy as applicable, asset-liability management, and investment and risk management.

- These regulations make detailed prescriptions pertaining to the manner, mechanism and modalities of actuarial and financial functions such as: (i) appointment of an actuary and preparation of an actuarial report; (ii) valuation of assets and liabilities; (iii) determination of solvency margin; (iv) distribution of surplus; (v) accounting principles to be followed; and (vi) preparation of financial statements.

- **The Corporate Governance Regulations**

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- The Corporate Governance Regulations apply to all insurers (except foreign reinsurers who are governed by the Foreign Reinsurer Regulations) and prescribe detailed requirements as to the constitution of the board of the insurer, along with committees, key management persons, auditors and other governance requirements.

- The board of directors of an insurance company is required to have competent and qualified directors with sufficient experience, satisfying the "fit and proper" criteria. The board must be independent of the promoters and management of the insurer with at least three (3) independent directors, and there is a requirement to obtain the IRDAI's approval for the appointment or removal of such directors.

- In addition to the committees required to be set up under the Companies Act, 2013, these regulations provide for other committees, such as a "Risk Management Committee," and "Investment Committee" who will be delegated powers by the board.

- These regulations also make prescriptions as to the appointment of key management persons and auditors, including their remuneration, responsibilities and timelines for filling of vacancies.

- In addition to the foregoing, these regulations also provide for disclosures, reports and policies of an insurer.

- **The e-Marketplace Regulations**

- The e-Marketplace Regulations specify the regulatory framework for establishment, governance and functioning of a digital public insurance marketplace, named Bima Sugam, to promote transparency, efficiency, collaboration and innovation, and to universalize and democratize insurance.

- The e-marketplace will be set up by a not-for-profit company formed under section 8 of the Companies Act, 2013, whose shareholding will be widely held among all the life, general and health insurers with no single entity having a controlling stake. The shareholders will be required to contribute capital in this company for continuous development and maintenance of the e-marketplace.

- The IRDAI will have two nominees on the board of Bima Sugam, along with oversight over the appointment, re-appointment and termination of the company's chairman, managing director and CEO, who will be appointed only after receipt of the IRDAI's approval.

- The e-marketplace is proposed to be a "one stop solution" for all insurance related matters, and insurers must facilitate the availability of all insurance products and services on the portal, including claim settlement and grievance redressal.

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- **The Tariff Circular**

  - This circular de-notifies the tariffs which were previously applicable to certain classes of businesses and insurance. While the premium rates, policy terms and deductibles were previously controlled and applied uniformly by all underwriters, the Tariff Circular states that these requirements will cease to be applicable from April 1, 2024.

  - Premiums pertaining to fire insurance, motor insurance, engineering insurance, workmen's compensation insurance and marine sea tariff have been de-notified.

Conclusion

The foregoing regulations consolidate the previously fragmented and scattered regulatory landscape into well-defined silos. Limited but focused changes have also been introduced, which will serve to improve the ease of operating in the insurance sector and ensure widespread insurance coverage across the country.

With "Insurance for All" being the stated objective, the insurance sector is gaining prominence in matters of governmental policy and is poised for substantial advancement. However, although the obligation to cover 10% of lives and entities in 25,000 villages is laudable, it will create a higher burden on insurance companies who do not have the required penetration in rural India and may result in greater losses to insurance companies as rural India may not have the appetite to pay premiums that urban India can afford.

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