

Paradigm shift for overseas reinsurers

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At the start of 2012 regulatory changes came into force for overseas non-admitted reinsurers that offer, or wish to offer, reinsurance protection to Indian insurers (for further details please see [“Changing times for overseas reinsurers in India”](#)). Through circulatory guidance issued by the Insurance Regulatory and Development Authority (IRDA) in January 2012, all ‘cross-border reinsurers’ (ie, all reinsurers that are non-admitted, but carry out reinsurance business for Indian insurers) were required to file a standard form application for registration with the IRDA providing details of their registration overseas, ownership and management, financial position and existing relationships with Indian insurers.

The IRDA guidance also clarified that this registration must be renewed; cross-border reinsurers are required to re-register by the end of every financial year. Furthermore, once registered through one Indian insurer, the cross-border reinsurer must make a limited form filing for any additional Indian insurer for which that cross-border reinsurer wishes to carry out reinsurance business during that financial year. If registrations are not made by the end of the financial year, then for the succeeding financial year, the cross-border reinsurer can participate only in facultative reinsurance.

The impact of this guidance was fairly significant for most overseas reinsurers, which had previously not been required to register or file details of their overseas operations directly with the IRDA. While several reinsurers have made their applications and received unique reference numbers from the IRDA, recent press reports indicate that further regulatory changes are in the pipeline, which are likely to have broad impact for overseas reinsurers.

Press reports in mid-May 2012 indicate that the IRDA is considering regulatory amendments which will prevent Indian insurers from ceding more than 50% of their premiums if the insurer has been operating for less than 10 years, or more than 30% of their premiums if the insurer has been operating for more than 10 years. Although correspondence has been circulated to insurers, this appears to be a proposed amendment which will be restricted to the life insurance sector. At present, there is no indication of whether this proposed amendment will be issued in its present form or of an implementation timescale.

The IRDA (Life Insurance - Reinsurance) Regulations 2000 and the IRDA (General Insurance - Reinsurance) Regulations 2000 permit Indian insurers to seek reinsurance protection from overseas non-admitted reinsurers, provided that the reinsurance arrangement does not result in the Indian insurer 'fronting' for reinsurers. The overriding objective of the reinsurance regulations is to maximise retentions in India, however, to date, the IRDA has specified no minimum retention amount or defined 'fronting'.

The market practice, particularly in regard to treaty arrangements, has been to retain around half of the risk and to reinsure the rest against a ceding commission. The communication to insurers is not available in the public domain, but press reports indicate that the practice has been viewed as Indian insurers effectively acting as service providers rather than risk-bearing insurers, and therefore the arrangement amounts to fronting.

While life insurers appear to be divided on the proposed mandate, if the proposed change is implemented, it will result in life insurers having to renegotiate a number of their treaty arrangements with overseas reinsurers. Furthermore, if this or similar mandates are extended to the general insurance sector as well (whether only on treaty arrangements or otherwise), it could lead to overseas reinsurers opting not to participate in reinsurance arrangements with Indian insurers, particularly if this is coupled with uncertainty regarding the proposed implementation of the reinsurance amendments contained in the Insurance Laws (Amendment) Bill 2008.

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