## Insurance & Reinsurance - India

### Life Insurance Corporation: more equal than others?

Contributed by **Tuli & Co**

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Author

**Neeraj Tuli**

On February 9 2013 the Insurance Regulatory and Development Authority (IRDA) confirmed that, depending on the size of its controlled fund, an insurer can now raise its equity investment limit to between 12% and 15% (in comparison to the earlier limit of 10%).

However, private insurers had been hoping for an increase in the investment limit to 20%, as press reports indicate that the Ministry of Finance had allowed the government-owned Life Insurance Corporation of India (LIC) to invest up to 30% and that a notification to this effect would be issued. The ministry's decision in relation to the investment limit for the LIC was vocally opposed by the IRDA, which argued that the decision contravened the Insurance Act 1938.

The ministry took a different view, based on a clarification provided by the Law Ministry. It held that the Insurance Act does indeed apply to all insurers and deals with investment limits for all insurers. However, the LIC was set up by the LIC Act 1956 (which is still in force), which allows the central government to control aspects of the LIC, including investment limits. Steps taken by the central government 30 years ago under the act allow the LIC to invest up to 30% in a company's paid-up capital. As far as the Ministry of Finance is concerned, this provision still holds good.

The IRDA has made it clear that it could not support an increase for other insurers beyond the levels that it notified in February 2013. By its notification, the IRDA limits insurers with a total corpus of traditional policies and policyholder funds in excess of Rs500 billion ($9.18 billion) to the earlier 10% investment limit. Insurers with a controlled fund of between Rs500 billion and Rs2.5 trillion ($45.9 billion) can raise their equity stake in a company to 12%. Those with a controlled fund of more than Rs2.5 trillion can raise their equity stake to 15% in a single company. It has been estimated that the LIC has a controlled fund of approximately Rs14,000 billion ($257 billion). Based on publicly available data, as of February 2013 the LIC owned a stake of:

- 15% or more in 15 listed companies;
- 12% or more in 28 companies; and
- 10% or more in 37 companies.

It has been argued that these special provisions for the LIC will continue. For example, there has been speculation about what would happen if the LIC's investment exceeded 25% (the point at which the takeover guidelines issued by the Securities and Exchange Board of India make it obligatory to make an open offer for an additional 26% of the equity). The LIC has stated that it would like an exemption from the Takeover Code, but it is unclear whether this wish will be granted or whether the Ministry of Finance notification has been issued. Speculation has also centred on the fact that the newly appointed IRDA chairman is TS Vijayan, the former chairman of the LIC.

*For further information on this topic please contact Neeraj Tuli at Tuli & Co by telephone (+91 11 4593 4000), fax (+91 11 4593 4001) or email (n.tuli@tuli.biz).*

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