

## The Securities and Insurance Laws (Amendment and Validation) Bill 2010

August 2010

The Bill was passed by both Houses of Parliament in August 2010. The Bill replaces the ordinance of 18 June 2010 which had brought unit-linked insurance plans (ULIPs) within the jurisdiction of the IRDA.

The salient features of the Bill are:

- The introduction of s45Y in the Reserve Bank of India Act 1934 which *inter alia* provided that any disputes/differences of opinion on hybrid instruments or composite instruments which have a component of money market investment, a securities market instrument or a component of insurance would be referred to a Joint Committee consisting of:
  - the Union Finance Minister - ex officio Chairperson;
  - the Governor, Reserve Bank of India - ex officio Vice-Chairperson;
  - the Secretary, Department of Economic Affairs, in the Ministry of Finance, Government of India - ex officio Member;
  - the Secretary, Department of Financial Services, in the Ministry of Finance, Government of India - ex officio Member;
  - the Chairperson, Insurance Regulatory and Development Authority - ex officio Member;
  - the Chairman, Securities and Exchange Board of India - ex officio Member;
  - the Chairperson, Pension Fund Regulatory and Development Authority - ex officio Member.

The Secretary (Financial Services) in the Ministry of Finance, Government of India will be the convener of the meetings of the Joint Committee.

The decision of the Joint Committee will be binding on the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority and the Pension Fund Regulatory and Development Authority.

- An amendment to s2(11) of the Insurance Act 1938 to include the following explanation to the definition of 'life insurance business':

*For the removal of doubts, it is hereby declared that "life insurance business" shall include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment and a component of insurance issued by an insurer referred to in clause (9) of this section.*

- An amendment to s2(h) of the Securities Contracts(Regulation) Act 1956 to include the following explanation to the definition of 'securities':

*For the removal of doubts, it is hereby declared that "securities" shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever named called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938.*

- An amendment to s12(1B) of the Securities Exchange Board of India Act 1992 to include the following explanation:

*For the removal of doubts, it is hereby declared that, for the purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by an insurer.*

The Joint Committee presently provides for a joint mechanism (headed by the Finance Minister) for resolving disputes amongst the financial regulators, SEBI, RBI, IRDA and PFRDA. The RBI's concerns for autonomy have been addressed by including its governor, as vice-chairman of the joint commission, instead of making him only a member.

**For further information on this topic please contact Tuli & Co by telephone**

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