Unit-IV

CHAPTER-2.IRDA powers, functions and authority.

IRDA Act
In order to control private sector insurance companies, the Government of India passed the IRDA Act (Insurance Regulatory and Development Authority Act, 1999) which enabled it to regulate the private sector companies in insurance business. What was the sole monopoly of the LIC is now thrown open to the private sector for covering the life and property of individuals. Now, the IRDA controls the entire insurance business in India.

Composition of Authority of IRDA

Composition of IRDAI:

As per Sec. 4 of IRDAI Act, 1999, the composition of the Authority is:

a) Chairman;

b) Five whole-time members;

c) Four part-time members,

(appointed by the Government of India)

IRDAI's Head Office is at Hyderabad

All the major activities of IRDAI including ensuring financial stability of insurers and monitoring market conduct of various regulated entities is carried out from the Head Office.

IRDAI's Regional Offices are at New Delhi & Mumbai

The Regional Office, New Delhi focuses on spreading consumer awareness and handling of Insurance grievances besides providing required support for inspection of Insurance companies and other regulated entities located in the Northern Region. This office is functionally responsible for licensing of Surveyors and Loss Assessors. Regional Office at Mumbai handles similar activities, as in Regional Office Delhi, pertaining to Western Region.

B. Insurance Regulatory Framework:

1. Insurance Regulatory and Development Authority of India (IRDAI), is a statutory body formed under an Act of Parliament, i.e., Insurance Regulatory and Development Authority Act, 1999 (IRDAI Act 1999) for overall supervision and development of the Insurance sector in India.
2. The powers and functions of the Authority are laid down in the IRDAI Act, 1999 and Insurance Act, 1938. The key objectives of the IRDAI include promotion of competition so as to enhance customer satisfaction

through increased consumer choice and fair premiums, while ensuring the financial security of the Insurance market.

3. The Insurance Act, 1938 is the principal Act governing the Insurance sector in India. It provides the powers to IRDAI to frame regulations which lay down the regulatory framework for supervision of the entities operating in the sector. Further, there are certain other Acts which govern specific lines of Insurance business and functions such as Marine Insurance Act, 1963 and Public Liability Insurance Act, 1991.

4. IRDAI adopted a Mission for itself which is as follows:

- To protect the interest of and secure fair treatment to policyholders;
- To bring about speedy and orderly growth of the Insurance industry (including annuity and superannuation payments), for the benefit of the common man, and to provide long term funds for accelerating growth of the economy;
- To set, promote, monitor and enforce high standards of integrity, financial soundness, fair dealing and competence of those it regulates;
- To ensure speedy settlement of genuine claims, to prevent Insurance frauds and other malpractices and put in place effective grievance redressal machinery;
- To promote fairness, transparency and orderly conduct in financial markets dealing with Insurance and build a reliable management information system to enforce high standards of financial soundness amongst market players;
- To take action where such standards are inadequate or ineffectively enforced;
- To bring about optimum amount of self-regulation in day-to-day working of the industry consistent with the requirements of prudential regulation.

5. Entities regulated by IRDAI:

a. Life Insurance Companies - Both public and private sector Companies

b. General Insurance Companies - Both public and private sector Companies. Among them, there are some standalone Health Insurance Companies which offer health Insurance policies.

c. Re-Insurance Companies

d. Agency Channel

e. Intermediaries which include the following:

- Corporate Agents
- Brokers
- Third Party Administrators

- Surveyors and Loss Assessors.

6. Regulation making process:

- Section 26 (1) of IRDAI Act, 1999 and 114A of Insurance Act, 1938 vests power in the Authority to frame regulations, by notification.
- Section 25 of IRDAI Act, 1999 lays down for establishment of Insurance Advisory Committee consisting of not more than twenty five members excluding the ex-officio members. The Chairperson and the members of the Authority shall be the ex-officio members of the Insurance Advisory Committee.
- The objects of the Insurance Advisory Committee shall be to advise the Authority on matters relating to making of regulations under Section 26.
- Accordingly the draft regulations are first placed in the meeting of Insurance Advisory Committee and after obtaining the comments/recommendations of IAC, the draft regulations are placed before the Authority for its approval.
- Every Regulation approved by the Authority is notified in the Gazette of India.
- Every Regulation so made is submitted to the Ministry for placing the same before the Parliament.

7. The Authority has issued regulations and circulars on various aspects of operations of the Insurance companies and other entities covering:

- Protection of policyholders’ interest
- Procedures for registration of insurers or licensing of intermediaries, agents, surveyors and Third Party Administrators;
- Fit and proper assessment of the promoters and the management
- Clearance /filing of products before being introduced in the market
- Preparation of accounts and submission of accounts returns to the Authority.
- Actuarial valuation of the liabilities of life Insurance business and forms for filing of the actuarial report;
- Provisioning for liabilities in case of non-life Insurance companies
- Manner of investment of funds and periodic reports on investments
- Maintenance of solvency
- Market conduct issues

C. Supervisory Role:

1. The objective of supervision as stated in the preamble to the IRDAI Act is "to protect the interests of holders of Insurance policies, to regulate, promote and ensure orderly growth of the Insurance industry", both Insurance and Reinsurance business. The powers and functions of the Authority are laid down in the IRDAI Act, 1999 and Insurance Act, 1938 to enable the Authority to achieve its objectives.
2. Section 25 of IRDAI Act 1999 provides for establishment of Insurance Advisory Committee which has Representatives from commerce, industry, transport, agriculture, consume for a, surveyors agents, intermediaries, organizations engaged in safety and loss prevention, research bodies and employees' association in the Insurance sector are represented. All the rules, regulations, guidelines that are applicable to the industry are hosted on the website of the supervisor and are available in the public domain.
3. Section 14 of the IRDAI Act,1999 specifies the Duties, Powers and functions of the Authority. These include the following:

- To grant licenses to (re) Insurance companies and Insurance intermediaries
- To protect interests of policyholders,
- To regulate investment of funds by Insurance companies, professional organisations connected with the (re)Insurance business; maintenance of margin of solvency;
- To call for information from, undertaking inspection of, conducting enquiries and investigations of the entities connected with the Insurance business;
- To specify requisite qualifications, code of conduct and practical training for intermediary or Insurance intermediaries, agents and surveyors and loss assessors
- To prescribe form and manner in which books of account shall be maintained and statement of accounts shall be rendered by insurers and other Insurance intermediaries;

D. Prudential approach: Reporting, Risk monitoring and intervention:

1. Reporting Requirements:

Insurers are required to submit various returns like financial statements on an annual basis duly accompanied by the Auditors' opinion statement on the annual accounts; reports of valuation of assets, valuation of liabilities and solvency margin; actuarial report and abstract and annual valuation returns giving information about the financial condition for life Insurance business; Incurred But Not Reported claims in case of general Insurance business; Reinsurance plans on an annual basis; and monthly statement on underwriting of large risks in case of general Insurance companies; details of capital market exposure on a monthly basis; Investment policy, Quarterly and annual returns on investments.

2. Solvency of Insurers:

In order to monitor and control solvency requirements, it has been made mandatory to the insurers to submit solvency report on quarterly basis. In case of any deviation, the Supervisor initiates necessary and suitable steps so as to ensure that the Insurer takes immediate corrective action to restore the solvency position at the minimum statutory level.

Computation of solvency margin takes into account the inherent risk that respective line of business poses to the insurer. Higher requirements are placed for risky lines of business compared to others posing less risk to the insurers. Even though the insurers are required to maintain a minimum solvency ratio of 150% at all times, the actual solvency margin maintained by insurers are well above the required solvency margin leading to the solvency margin ratio significantly higher than 150% on average.

Quarterly solvency ratio reports have to be submitted to the Supervisor, maintaining minimum solvency ratio of 150%. This provides the regular a mechanism to monitor the solvency position periodically over the financial year in order to ensure compliance with the requirements and hence to initiate suitable action in the event of any early warning signal on the Insurer’s financial condition.

3. Asset-Liability Management:

Under Asset-Liability Management reporting, Insurer must provide the year wise projected cash flows, in respect of both assets and liabilities. Insurers must maintain mismatching reserves in case of any mismatch between assets and liabilities as a part of the global reserves. Further, Life insurers are required to submit a report on sensitivity and scenario testing exercise in the prescribed format. Non-life insurers must submit a report on ‘Financial Condition’ covering the sensitivity analysis of the financial soundness in meeting the policyholders’ liabilities.

The supervisor requires management of investments to be within the insurer’s own organization. In order to ensure a minimum level of security of investments in line with Insurance Act Provisions, the regulations prescribe certain percentages of the funds to be invested in government securities and in approved securities. The regulatory framework lays down the norms for the mix and diversification of investments in terms of Types of Investment, Limits on exposure to Group Company, Insurer’s Promoter Group Company. Investment Regulations lay down the framework for the management of investments. The exposure limits are also prescribed in the Regulations. The Investment Regulations require a proper methodology to be adopted by the insurer for matching of assets and liabilities.

4. Reinsurance:

Transfer of risk through Reinsurance is recognized only to the extent specified in the regulations. Due safeguards are built in to ensure that adjustments are made to provide for quality of assets held. No other risk transfer mechanism exists in the current system. In order to minimize the counterparty risk, the re-insurers with whom business is placed must have the minimum prescribed rating by an independent credit rating agency as specified in the regulations. Legislation has specified the minimum capital requirements for an Insurance company. It further, prescribes that Insurance companies can capitalize their operations only through ordinary shares which have a single face value.

Reinsurer

General Insurance Corporation of India (GIC of India) is the sole National Reinsurer, providing Reinsurance to the Insurance companies in India. The Corporation's Reinsurance programme has been designed to meet the objectives of optimising the retention within the country, ensuring adequate coverage for exposure and developing adequate capacities within the domestic market. It is also administering the Indian Motor Third Party Declined Risk Insurance Pool – a multilateral Reinsurance arrangement in respect of specified commercial vehicles where the policy issuing member insurers cede Insurance premium to the Declined Risk pool based on the underwriting policy approved by IRDAI.

5. Corporate Governance:

In order to protect long- terms interests of policyholders, the IRDAI has outlined appropriate governance practices applicable to Insurance companies for maintenance of solvency, sound long-term investment policy and assumption of underwriting risks on a prudential basis from time to time. The IRDAI has issued comprehensive guidelines for adoption by Insurance companies on the governance responsibilities of the Board in the management of the Insurance functions. These guidelines are in addition to provisions of the Companies Act, 1956, Insurance Act, 1938 and other applicable laws.

Corporate Governance Guidelines issued by IRDAI, requires insurers to have in place requisite control functions. The oversight of the control functions is vested with the Boards of the respective insurer. It lays down the structure, responsibilities and functions of Board of Directors and the senior management of the companies. Insurers are required to adopt sound prudent principles and practices for the governance of the company and should have the ability to quickly address issues of non-compliance or weak oversight and controls.

The Guidelines mandated the insurers to constitute various committees viz., Audit Committee, Investment Committee, Risk Management Committee, Policyholder Protection Committee and Asset-Liability Management Committee. These committees play a critical role in strengthening the control environment in the company.

6. On and off site Supervision:

Onsite Inspections:

The Authority has the power to call for any information from entities related to insurance business – Insurance companies and the intermediaries, as may be required from time to time.

On site inspection is normally carried out on an annual basis which includes inspection of corporate offices and branch offices of the companies. These inspections are conducted with view to check compliance with the provisions of Insurance Act, Rules and regulations framed thereunder.

The inspection may be comprehensive to cover all areas, or may be targeted on one, or a combination of, key areas. When a market-wide event having an impact on the insurers occurs, the Supervisor obtains relevant information from the insurers, monitors developments and issues directions as it may consider necessary. Though there is no specific requirement, events of importance trigger such action. The supervisor reviews the "internal controls and checks" at the offices of Insurance companies, as part of on-site inspection.

Off-site Inspection:

The primary objective of off-site surveillance is to monitor the financial health of Insurance companies, identifying companies which show financial deterioration and would be a source for supervisory concerns. This acts as a trigger for timely remedial action.

The off-site inspection conducted by analyzing periodic statements, returns, reports, policies and compliance certificates mandated under the directions issued by the Authority from time to time. The periodicity of these filings is generally annual, half-yearly, quarterly and monthly and are related to business performance, investment of funds, remuneration details, expenses of management, business statistics, auditor certificates related to various compliance requirements.

The statutory and the internal auditors are required to audit all the areas of functioning of the Insurance companies. The particular area of focus is the preparation of accounts of the company to reflect the true and fair position of the company as at the Balance Sheet date. The auditors also examine compliance or otherwise with all statutory and regulatory requirements, and in particular whether the Insurance company has been compliant with the various directions issued by the supervisor. In addition, the Authority relies upon the certifications which form part of the Management Report. The Board is required to certify that the management has put in place an internal audit system commensurate with the size and nature of its business and that it is operating effectively.

All Insurance companies are required to publish financial results and other information in the prescribed formats in newspapers and on their websites at periodic intervals.

7. Micro Insurance and Rural & Social Sector Obligations

The IRDAI had issued micro Insurance regulations for the protection of low income people with affordable Insurance products to help cope with and recover from common risks with standardised popular Insurance products adhering to certain levels of cover, premium and benefit standards. These regulations have allowed Non Governmental Organisations (NGOs), Self Help Groups (SHGs) and other permitted entities to act as agents to Insurance companies in marketing the micro Insurance products and have also allowed both life and non-life insurers to promote combi-micro Insurance products.

The Regulations framed by the Authority on the obligations of the insurers towards rural and social sector stipulate targets to be fulfilled by insurers on an annual basis. In terms of these regulations, insurers are required to cover year wise prescribed targets (i) in terms of number of lives under social obligations; and (ii) in terms of percentage of policies to be underwritten and percentage of total gross premium income written direct by the life and non-life insurers respectively under rural obligations.

Website: https://www.youtube.com/watch?v=Z7Mo5TjqyDQ