
UNIT 22 INSURANCE BROKING SERVICES

Objectives

After going through this unit, you should be able to:

- 1 distinguish between Insurance Agent and Broker;
- 1 types of Brokers and Functions of brokers;
- 1 role of Broker; and
- 1 code of Conduct of Brokers.

Structure

- 22.1 Introduction
- 22.2 Insurance Agent and Insurance Broker
- 22.3 Types of Brokers
- 22.4 Functions of a Direct Broker
- 22.5 Functions of a Reinsurance Broker
- 22.6 Insurance Market Dynamics and Role of Insurance Broker
- 22.7 Industrial Concerns
- 22.8 Code of Conduct for Insurance Brokers
- 22.9 IRDA Regulations for Policyholders Protection
- 22.10 Summary
- 22.11 Self Assessment Questions

22.1 INTRODUCTION

The Indian insurance industry is governed by the Insurance Act 1938, the Life Insurance Corporation Act 1956, the General Insurance Business (Nationalisation) Act 1972 and the Insurance Regulatory and Development Authority Act 1999. IRDA Act, 1999 was passed by the Union Government permitting the entry to the private sector in insurance. Consequent to this, private players with foreign tie-ups entered into the market. Liberalization of insurance sector has opened up tremendous business opportunities to domestic and foreign operators. India is one of the fastest growing economies with excellent future prospects and vast untapped insurance market for *life and non life*, many alliances started transacting business of course after getting license from IRDA. The supervisory control on insurance companies is exercised by IRDA. Regulatory and supervisory powers of IRDA are wide and pervasive. Right from issuing license to insurance companies, approval of products and pricing, guiding deployment of investment funds, solvency requirements, etc. The IRDA has also got powers of investigation, inspection, monitoring the activities of intermediaries and issue the licenses for intermediaries like insurance brokers, surveyors and loss assessors. As a part of IRDA's developmental activity, IRDA has permitted entry of insurance brokers in Indian market vide their notification dated 16th October 2002. The IRDA has made Insurance Brokers Regulations, 2002 applicable for Insurance Broking services.

22.2 INSURANCE AGENT AND INSURANCE BROKER

Until 2002 in India, insurance was mainly sold by the insurance agents. **Insurance agent is a legal representative of the insurance company** who solicits or induces the person to apply for insurance and the insurance becomes effective only if the application is approved by the insurance company. After getting approval from insurance company agent delivers the contract to the applicant. For procurement of business, agent gets compensation in the form of commission from insurance company.

Insurance agent represents insurance company i.e. supplier of insurance whereas **insurance broker is someone who legally represents the insured**. In real world the word 'Broker' applies to a wide range of firms covering a wide range from Multi National Companies to High Street Broker. Insurance Brokers are a set of intermediaries who can solicit and procure insurance business of life insurance, general insurance, or both. They are essentially independent intermediaries and legally represent the insured or their clients who are prospective buyers. Their work starts with recommending the risk plan and will continue to serve the client till the settlement of the claim. Insurance agent works for a single insurer whereas broker works with many insurers. Though the broker is representative of insured, he is paid commission from the insurer with whom he places the business.

Who Can Be a Insurance Broker?

A Broker is an individual or a proprietor, partnership firm or a company formed under companies Act, 1956 or a Cooperative Society Registered under the cooperative societies Act, 1912 under any law for the registration of cooperative societies.

A Broker can get associated with many companies but cannot act as an agent of any insurer. By virtue of his position he could obtain a good deal for the prospects on favourable terms.

22.3 TYPES OF BROKERS

The broker has a choice to choose the area in which he wants to operate viz. Life Insurance, Non-Life Insurance and Reinsurance. The area chosen by a broker is the one in which he has acquired a specialist knowledge of particular classes of insurance. There are three categories of Insurance brokers classified as under:

- 1) Direct Broker - General Insurance Brokers and/or Life Insurance Brokers
- 2) Reinsurance Brokers
- 3) Composite Brokers

“Direct broker” means an insurance broker who for the time-being licensed by the Authority to act as such, for a remuneration carries out the functions as specified under regulation 3 either in the field of life insurance or general insurance or both on behalf of his clients;

“Reinsurance broker” means an insurance broker who for the time-being licensed by the Authority to act as such, for a remuneration, arranges re-insurance for his client/s; “Composite broker” means an insurance broker who for the time-being licensed by the Authority to act as such, for a remuneration, arranges insurance for his clients with insurance companies and/or re-insurance for his client/s.

The broker will have to obtain the license from the IRDA. The applicant has to have minimum of two persons employed having the minimum qualifications of an Associate of Insurance Institute of India or its equivalent or any other professional qualifications

from an institution recognised by government, in finance, law, engineering, or business management, and has undergone theoretical and practical training to be conducted by the Insurance Brokers Training Institutes approved by IRDA and on the basis of syllabus finalised by the IRDA. However, a person carrying on reinsurance broking and other insurance consultancy for a period of more than 10 years and having required experience of carrying on insurance business, the authority may grant exemptions as regards qualifications and training. The broker's application will be reviewed by the authority in regard to infrastructural aspects i.e. whether he has sufficient office space, equipments and manpower to discharge his duties. The principal officer should not have violated the code of conduct, the applicant should not be engaged in any other business, & the issue of license is in the interest of the policyholders.

Broker Regulation at a Glance

Category of Insurance Broker	Type of Broker Required	Minimum Capital
Category I	Direct General Insurance Broker	Rs. 50 Lakhs
Category II	Direct Life Insurance Broker	Rs. 50 Lakhs
Category III	Reinsurance Broker	Rs.200 Lakhs
Category IV	Composite Broker	Rs.250 Lakhs

Source: IRDA Regulations

Simultaneously with the application for license the applicant has to satisfy the capital adequacy requirements that has been notified by the IRDA. A similar requirement will be notified for renewal of the license issued.

In addition to observation of code of conduct the insurance broker is required to maintain separate accounts in respect of Insurance Money and his earnings. For that purpose he has to treat all money i.e. premiums and claims received from or on behalf of an insured as insurance money and should ensure that it is held in an Insurance Bank Account with one or more scheduled banks.

Every insurance broker will have to maintain solvency margin as notified by the IRDA in the regulations.

22.4 FUNCTIONS OF A DIRECT BROKER

The functions of a direct broker shall include any one or more of the following:

- 1 Obtaining detailed information of the client's business and risk management philosophy;
- 1 Familiarizing himself with the client's business and underwriting information so that this can be explained to an insurer and others;
- 1 Rendering advice on appropriate insurance cover and terms;
- 1 Maintaining detailed knowledge of available insurance markets, as may be applicable;
- 1 Submitting quotation received from insurer/s for consideration of a client;
- 1 Providing requisite underwriting information as required by an insurer in assessing the risk to decide pricing terms and conditions for cover;
- 1 Acting promptly on instructions from a client and providing him written acknowledgements and progress reports;
- 1 Assisting clients in paying premium under section 64VB of Insurance Act, 1938;

- 1 Providing services related to insurance consultancy and risk management;
- 1 Assisting in the negotiation of the claims; and
- 1 Maintaining proper records of claims.

22.5 FUNCTIONS OF A REINSURANCE BROKER

The functions of re-insurance broker shall include any one or more of the following:

- 1 Familiarizing himself with the client's business and risk retention philosophy;
- 1 Maintaining clear records of the insurer's business to assist the re-insurer/(s) or others;
- 1 Rendering advice based on technical data on the reinsurance covers available in the international insurance and the reinsurance markets;
- 1 Maintaining a database of available reinsurance markets, including solvency ratings of individual re-insurers;
- 1 Rendering consultancy and risk management services for re-insurance;
- 1 Selecting and recommending a re-insurer or a group of re-insurers;
- 1 Negotiating with a re-insurer on the client's behalf;
- 1 Assisting in case of commutation of reinsurance contracts placed with them;
- 1 Acting promptly on instructions from a client and providing it written acknowledgements and progress reports;
- 1 Collecting and remitting premiums and claims within such time as agreed upon;
- 1 Assisting in the negotiation and settlement of claims;
- 1 Maintaining proper records of claims; and
- 1 Exercising due care and diligence at the time of selection of re-insurers and international insurance brokers having regard to their respective security rating and establishing respective responsibilities at the time of engaging their services.

Functions of Composite Broker

A composite broker shall carry out any one or more of the functions of Direct Broker and Reinsurance Broker as stated above.

22.6 INSURANCE MARKET DYNAMICS AND ROLE OF INSURANCE BROKER

Unlike stock market where the demand for stocks is fluctuating, in insurance market the demand for insurance products is relatively fixed. Generally people are not very keen to purchase insurance. They are aware of quite a few common forms of insurance i.e. Life Insurance and in Non-life Insurance category Motor Insurance and Third Party insurance but probably not aware of the considerable range of covers which the insurance market offers. They know that insurance is needed, but still are reluctant to purchase insurance. The root cause of this attitude is they have to pay the premium now just for the possibility of occurrence of insured event sometime in future and they do not receive any immediate tangible benefit. All that they get is the insurance policy - which contains that promise. Secondly the policy document which is drafted in legal lingo that is very difficult to understand for ordinary people.

Insurance contracts are contingent financial assets so both the parties to contract generally do not want to face contingency which leads to only unpleasant circumstances, which the insured would rather not think about. Barring some investment oriented life insurance contracts, both parties would feel that it should

never come into effect. There is no wonder that most insurance covers for individuals and also for industrial concerns/corporates are bought as a result of either compulsion or persuasion.

So far as the individuals are concerned under non-life category, motor insurance is mandatory for individuals who own vehicle, therefore with increasing number of vehicles the scope of motor insurance also increases. There are many insurers who offer motor insurance and very often the vehicle owner does not know how to find the best insurer. Here the broker is able to find the best combination of prices and conditions for the particular circumstances of his client among the many offers. While doing so he ensures that the insurer is financially sound. After selling the policy if the insured meets with an accident, the broker should guide him and extend help to complete the formalities of lodging a claim on his insurer and possibly advise and extend assistance in making an uninsured loss claim against the other party.

Broker should precisely start with educating his clients about the available insurance products in the market and their uses to him in his peculiar circumstances. The client, will often need prompting to consider the need to insure his possessions against loss and to make sure that his family would have a continuing income not only in the event of his death but also if he were involved in an accident or suffered a major illness.

The broker's job does not merely end up by offering his client the kind of cover he requires. He must be in touch with his client to ensure that the insurances he has bought are adequate to cover all his risk in view of increased income, enhanced business, family size, physical conditions, etc. By keeping track of developments in client's life, the broker should remind his client to make sure that the sums insured on his policies are adequate, he should also emphasise the need of some additional cover to take care of additional liability.

For individuals, the broker should offer a package of several insurances in one policy offering various options which will meet the needs of majority of the general public at competitive rate.

It is the broker's skill to search the market to find as close an approximation to suit his client's needs, choices, preferences and if not then he may influence insurers to create a 'tailor-made' policy at a reasonable premium, provided it is offered by an insurer in whose security and reputation the broker has absolute confidence. Otherwise however attractive the cover may be, its value diminishes if there will be unwarranted delays in claims settlement, and it is worthless if the insurer becomes insolvent.

Activity 1

- 1) Give the points of distinction between an insurance agent and an insurance broker.

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- 2) Enumerate the roles performed by an insurance broker.

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22.7 INDUSTRIAL CONCERNS

Business concerns differ in size sometimes they are very large, medium or small. The role of the broker varies according to the size and type of the business. The awareness and need of a small engineering workshop will not be the same as that of a multi-national corporation. But the broker's job will be the same for his client, for the largest company as it is for the individual to use his knowledge of insurance and of the insurance market to help his client to arrange a sound insurance program which, to the maximum extent possible should meet the client's particular insurance needs.

The insurances of a small company will be dealt with, in a very similar manner to that of an individual. The relationship with the directors of the business is likely to be personal and they can be considered as individuals who have different, and more extended insurance needs because of their involvement with the company.

As regards industrial/business firms are concerned, firstly it will be essential for the broker to ensure that his clients have purchased all the compulsory insurances, which they need for their business to be carried on legally. Employer's liability cover to protect the workforce must be arranged, and motor insurance is also likely to be a necessity. If the business has plant or machinery, which requires a periodical statutory inspection, usually there will be a possibility of verdict of a huge award being made in a products liability case. The broker who has large companies and multinationals as his clients cannot therefore think in purely national terms.

22.8 CODE OF CONDUCT FOR INSURANCE BROKERS

The Code of Conduct shall serve as a guide to insurance brokers and other persons concerned with their conduct. The objective of the Code is to assist in establishing a recognised standard of professional conduct required of all insurance brokers who should, in the interests of the public and in the performance of their duties, bear in mind both this objective and the underlying spirit of the Code.

- a) Insurance brokers shall at all times conduct their business with Utmost good faith and integrity.
- b) Insurance brokers shall do everything possible to satisfy the insurance requirements of their clients and shall place the interests of those clients before all other considerations. Subject to these requirements and interests, insurance brokers shall have proper regard for others.
- c) Statements made by or on behalf of insurance brokers, when advertising shall not be misleading or extravagant.
 - 1) Insurance brokers shall on request from the client explain the differences in, and the relative costs of, the principal types of insurance, which in the opinion of the insurance broker might suit a client's needs.
 - 2) Insurance brokers shall ensure the use of a sufficient number of insurers to satisfy the insurance requirements of their clients.
 - 3) Insurance brokers shall not withhold from the policyholder any written evidence or documentation relating to the contract of insurance without adequate and justifiable reasons being disclosed in writing and without delay to the policyholder. If an insurance broker withholds a document from a policyholder by way of a lien for monies due from that policyholder he shall provide the reason in the manner required above.
 - 4) Insurance brokers shall inform a client of the name of all insurers with whom a contract of insurance is placed. This information shall be given at

the inception of the contract and any changes thereafter shall be advised at the earliest opportunity to the client.

- 5) Insurance brokers shall have proper regard for the wishes of a policyholder or client who seeks to terminate an agreement with them to carry out business.
- 6) Any information acquired by an insurance broker from his client shall not be used or disclosed except in the normal course of negotiating, maintaining, or renewing a contract of insurance for that client or unless the consent of the client has been obtained or the information is required by a court of competent jurisdiction.
- 7) When advertising their services directly or indirectly either in person or in writing insurance brokers shall disclose their identity, occupation and purpose before seeking information or before giving advice.

22.9 IRDA REGULATIONS FOR POLICYHOLDERS' PROTECTION

An individual becomes a policyholder after he/she buys a life insurance product. Protection of the individual's interest starts once he/she gets interested in buying a life insurance product. The individual clearly has considerably less knowledge about the product than the insurer or his intermediary. People expect to be able to evaluate and buy a product in a truly competitive market with the confidence that there is a regulatory system that will provide an environment of trust.

Risks an individual faces while buying a life insurance product, can be classified into three identifiable risks viz. the insolvency of the insurer; a failure to understand the product - hence purchasing; a product that is inappropriate; and a failure of the product to meet its forecast or perceived performance. Also for individuals, purchases of life insurance products are rare, and therefore there is little personal accumulation of experience and understanding. Individuals therefore heavily rely on the insurer and its intermediary for guidance.

These risks on the part of investors/policyholders are addressed by the IRDA. The risk of insolvency of the insurer is addressed by the regulatory authority through Investment Regulations; Appointed Actuary Regulations; and Assets, Liabilities Valuation and Solvency Margin Regulations.

The other two risks are addressed by the regulatory authority through the Protection of Policyholders' Interests Regulations.

Protection of Policyholders' Interest

The protection envisaged from the perspective of life insurance services consumer is at the point of sale; time of completing the proposal for life insurance; proposal processing stage; time of policy servicing; time of claim settlement; grievance redressal stage; and in policy wordings.

While the regulatory authority aims at ensuring financial viability of the life insurers, the policyholders need to have a safety net in the event of life insurer's inability to meet its policy liabilities. It would be useful here to understand as to what constitutes Policyholders' Reasonable Expectations (PRE). There is no formal definition of PRE. The general understanding relates to three main areas, viz. the treatment of with profits policyholders through bonus declarations; the basis on which unit prices are determined for unit linked business; and the exercise of any discretion the company may have, to alter the terms and conditions applicable to existing policies, especially in the area of charges under unit linked policies. An Appointed Actuary has to ensure

that his actions fulfill the PRE. “The Appointed Actuary must take all reasonable steps to ensure that the new policyholders are not misled with regard to their expectations, e.g. in connection with illustrations at the point of sale”. This guidance has been issued with the concurrence of the Authority.

The process at this point of time is regulated by legislation and also through self-regulatory mechanism created by the life insurers and intermediary association/s.

The regulations explicitly lay down the norms for various disclosures so as to facilitate informed decision making by the customers.

The regulations also lay down that “In the process of sale, the insurer or its agent or any intermediary shall act according to the code of conduct prescribed by” the Authority; and the self-regulatory bodies of the insurers and intermediaries.

The illustrations create expectations in the prospective policyholders and a life insurer has to ensure that those remain reasonable and are managed. The regulations are not clear whether “the process of sale” includes illustration. The illustrations form an important part of “the process of sale” and need explicit reference in the regulations.

The regulations prescribe ceiling on rider premium/benefit

Health related rider premium ceiling 100% of premium under basic product in case of term and group products; ceiling in all other cases 30 % of premium under basic product rider benefit not to exceed the sum assured under basic policy If the rider premium are high as compared to the basic policy premium, the maturity benefits, in the policyholder perception, might not be considered commensurate with the premium paid. This may possibly be changed as the market matures.

IRDA Regulations Completion of Proposal Form

Proposal information forms the main input for underwriting the proposal and the proposer shall give all information required by the insurer to underwrite the proposal.

Since life insurance is a contract of “good faith”, understanding the provisions of Section 45 of the Insurance Act is very important for the proposer.

The regulations require a life insurer to “prominently state in the proposal form the requirements of Section 45 of the Act”.

Regulations require that the life insurers shall endeavour to get the nomination effected so as to facilitate expeditious death claim processing. The regulations require that the proposals are processed with speed and efficiency.

All decisions must be communicated in writing within a reasonable period not exceeding 15 days from receipt of proposal.

Perhaps the regulations could require the life insurers to have transparency in communicating underwriting decisions.

IRDA Regulations Policy Document Wording

The regulations require policy wordings to be clear in specifying the product features and flow of benefits. The exclusions are required to be clearly stated as also the special clauses. The regulations require the insurers to provide “free look” period of 15 days from the date of receipt of policy document and to invite the attention of the policyholder to this provision.

IRDA Regulations Policy Servicing

The regulations do envisage timeframe for providing various services by the life insurers. No mechanism is outlined for ensuring compliance.

IRDA Regulations Claim Settlement

The regulations require that the policy document “shall state the primary documents which are normally required to be submitted by a claimant”. The regulations also lay down timeframe for various claims activities. As in policy servicing, no mechanism is envisaged for monitoring compliance. The period of six months, from the time of lodging claim, allowed for claims investigation is long.

IRDA Regulations Grievances Redressal

The regulations require that “Every insurer shall have in place procedures and effective mechanism to address the complaints and grievances of policyholders”. The information about this machinery and about the Insurance Ombudsman shall be communicated to the policyholders along with the policy document. The regulations may require an insurer to associate a person of eminence from public life to provide transparency to the grievance redressal process.

IRDA Regulation of Investments

The Insurance Regulatory and Development Authority has amended the investment regulations for insurers in consultation with the Insurance Advisory Committee. The regulations among others make it mandatory for all investment in assets/instruments, to be rated by an independent, reputed and recognised Indian or foreign rating agency.

1) Life Business In terms of explanation in Section 27A of the Act, the Authority has determined that assets relating to Pension business, Annuity business and Linked Life Insurance business shall not form part of the Controlled Fund for the purpose of that section.

Without prejudice to Section 27 or Section 27A of the Act, every insurer carrying on the business of life insurance shall invest and at all times keep invested his controlled fund (other than funds relating to pension and general annuity business and unit linked life insurance business) in the following manner:

Type of Investment	Percentage
i) Government Securities	25%
ii) Government Securities or other approved Securities (including (i) above)	Not less than 50%
iii) Approved Investments as specified in Schedule I	
a) Infrastructure and Social Sector Explanation for the purpose of this requirement, Infrastructure and Social Sector shall have the meaning as given in regulation 2(h) of Insurance Regulatory and Development Authority (Registration of India Insurance Companies) Regulations, 2000 and as defined in the Insurance Regulatory and Development Authority (Obligations of Insurers to Rural and Social Sector) Regulations, 2000 respectively.	No less than 15%
b) Others to be governed by Exposure Others to be governed by Exposure norms as specified in regulation 5. Investment in “other than approved investments” can in no case exceed 15% of the fund	Not exceeding 35%

2) 'Unit Linked Life Insurance Business'. Every insurer shall invest and at all times keep invested, his segregated fund of unit linked life insurance business as per pattern of investment offered to and approved by the policy holders. Unit Linked policies may only be offered where the units are linked to categories of assets which are both marketable and easily realizable. However, the total investment in other than approved category of investments shall at no time exceed 25% of the fund.

3) Regulation of Investments General Business

3(1) General Business: Without prejudice to Section 27 or Section 27B of the Act, every insurer carrying on the business of general insurance shall invest and at all times keep invested his total assets in the manner set out below:

S.No.	Type of Investment	Percentage
i)	Central Government Securities being not less than	20%
ii)	State Government securities and other Guaranteed Securities including (i) above being not less than	30%
iii)	Housing and Loans to State Government for Housing and Fire Fighting equipment, being not less than, (Subscription to/purchase of Bonds/debentures issued by HUDCO, National Housing Bank or House building institutions duly accredited by National Housing Banks, for house building activities, duly guaranteed by Government or carrying current rating of not less than 'AA' by independent, reputed and recognised rating agencies would also qualify for compliance of this regulation.)	5%
iv)	Investments in Approved Investments as specified in Schedule II	
	a) Infrastructure and Social Sector	Not less than 10%
	b) Others to be governed by Exposure Norms specified in regulation 5 so however that investment in "other than approved investments" can in no case exceed 25% of the assets.	Not exceeding 55%

Explanation

For the purpose of this requirement, Infrastructure and Social Sector shall have the meaning as given in regulation 2(h) of Insurance Regulatory and Development Authority (Registration of Indian Insurance Companies) Regulations, 2000 and as defined in the Insurance Regulatory and Development Authority (Obligations of Insurers to Rural and Social Sector) Regulations, 2000 respectively.

22.10 SUMMARY

Most of us even today conceive the idea that insurance is sold only by insurance agents but its not so, insurance brokers are also there in this business. Insurance agent is a legal representative of the insurance company who solicits or induces the person to apply for insurance and the insurance becomes effective on the acceptance of the application by the insurance company. Insurance broker is a legal representative of the insured. Insurance brokers are a set of intermediaries who can solicit and procure insurance business of life insurance, general insurance or both. Their work starts from recommending of the risk plan and continues till the settlement of the claim.

In this unit we have also explained the functions of different types of brokers, and also the insurance market dynamics. The role played by the insurance broker are varied such as finding the best combination of prices and conditions for the particular circumstances of the client, keeping in touch with the client to ensure that the insurances he has bought are adequate to cover all his risks, keeping track of the developments in his client's life etc. The code of conduct which serves as a guide to insurance brokers and other persons concerned with their conduct has also been dealt with. We have also discussed the Regulations laid down by the Insurance Regulatory and Development Authority for protecting the interests of the policyholders.

22.11 SELF ASSESSMENT QUESTIONS

- 1) What do you mean by an insurance broker? Discuss the role of insurance brokers.
- 2) Explain about the different types of brokers and the functions carried out by each of them.
- 3) Describe the code of conduct which the insurance brokers have to abide by.
- 4) Discuss in detail the regulations given by IRDA for protection of the interests of policyholders.

INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY**NOTIFICATION**

New Delhi, the 16th October , 2002

**INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY
(INSURANCE BROKERS) REGULATIONS, 2002**

F. No, IRDA/Reg/10/ 2002 — In exercise of the powers conferred by section 114A of the Insurance Act, 1938 (4 of 1938) read with sections 14 and 26 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) the Authority in consultation with the Insurance Advisory Committee, hereby makes the following regulations, namely:

- 1) **Short title and commencement** — (1) These regulations may be called the Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002.
- 2) They shall come into force on the date of their publication in the Official Gazette.

Definitions — (1) Unless the context otherwise requires, —

- (a) “Act” means the Insurance Act, 1938 (4 of 1938);
- (b) “Advisory Committee” means the Advisory Committee constituted under section 25 of the Insurance Regulatory and Development Authority Act (41 of 1999);
- (c) “Authority” means the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);
- (d) “composite broker” means an insurance broker who for the time-being licensed by the Authority to act as such, for a remuneration, arranges insurance for his clients with insurance companies and/or reinsurance for his client/s;
- (e) “direct broker” means an insurance broker who for the time-being licensed by the Authority to act as such, for a remuneration carries out the functions as specified under regulation 3 either in the field of life insurance or general insurance or both on behalf of his clients;
- (f) “enquiry officer” means an officer of the Authority, or any other person having experience in insurance business, who is appointed by the Authority under regulation 37, to hold an enquiry against an insurance broker;
- (g) “form” means the forms specified under these regulations;
- (h) “inspecting authority” means one or more of its officers appointed by the Authority to discharge the functions stated in regulation 29;
- (i) “insurance broker” means a person for the time-being licensed by the Authority under regulation 11, who for a remuneration arranges insurance contracts with insurance companies and/ or reinsurance companies on behalf of his clients.

Explanation: The term “insurance broker” wherever it appears in these regulations shall be deemed to mean a direct broker, a

reinsurance broker or a composite broker, as the case may be, unless expressly stated to the contrary;

- (j) “person” means-
 - (i) an individual; or
 - (ii) a firm; or
 - (iii) a company formed under the Companies Act, 1956 (1 of 1956); or
 - (iv) a co-operative society registered under the Co-operative Societies Act, 1912 or under any law for the registration of co-operative /] societies; or
 - (v) any other person recognized by the Authority to act as an insurance broker;
- (k) “principal officer” means — (i) proprietor, in the case of a proprietary concern; or (ii) a partner, in the case of a partnership firm; or (iii) a director, who is responsible for the activities of the insurance broking in the case of a body corporate; (iv) or the chief executive officer appointed exclusively to carryout the functions of an insurance broker;
- (l) “regulations” means Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002;
- (m) “reinsurance broker” means an insurance broker who, for a remuneration, arranges reinsurance for direct insurers with insurance and reinsurance companies.
- (2) Words and expressions used and not defined in these regulations but defined in the Insurance Act, 1938 (4 of 1938), or the Life Insurance Corporation Act, 1956 (31 of 1956) or the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), or Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) shall have the meanings respectively assigned to them in those Acts or the rules and regulations made thereunder, as the case may be.
- 3) **Functions of a direct broker** — The functions of a direct broker shall include any one or more of the following:
 - (a) obtaining detailed information of the client’s business and risk management philosophy;
 - (b) familiarising himself with the client’s business and underwriting information so that this can be explained to an insurer and others;
 - (c) rendering advice on appropriate insurance cover and terms;
 - (d) maintaining detailed knowledge of available insurance markets, as may be applicable;
 - (e) submitting quotation received from insurer/s for consideration of a client;
 - (f) providing requisite underwriting information as required by an insurer in assessing the risk to decide pricing terms and conditions for cover;
 - (g) acting promptly on instructions from a client and providing him written acknowledgements and progress reports;
 - (h) assisting clients in paying premium under section 64VB of Insurance Act, 1938 (4 of 1938);
 - (i) providing services related to insurance consultancy and risk management;
 - (j) assisting in the negotiation of the claims; and
 - (k) maintaining proper records of claims;

- 4) **Functions of a re-insurance broker** — The functions of a re-insurance broker shall include any one or more of the following:
- (a) familiarising himself with the client's business and risk retention philosophy;
 - (b) maintaining clear records of the insurer's business to assist the reinsurer(s) or others;
 - (c) rendering advice based on technical data on the reinsurance covers available in the international insurance and the reinsurance markets;
 - (d) maintaining a database of available reinsurance markets, including solvency ratings of individual reinsurers;
 - (e) rendering consultancy and risk management services for reinsurance;
 - (f) selecting and recommending a reinsurer or a group of reinsurers;
 - (g) negotiating with a reinsurer on the client's behalf;
 - (h) assisting in case of commutation of reinsurance contracts placed with them;
 - (i) acting promptly on instructions from a client and providing it written acknowledgements and progress reports;
 - (j) collecting and remitting premiums and claims within such time as agreed upon;
 - (k) assisting in the negotiation and settlement of claims;
 - (l) maintaining proper records of claims; and
 - (m) exercising due care and diligence at the time of selection of reinsurers and international insurance brokers having regard to their respective security rating and establishing respective responsibilities at the time of engaging their services.
- 5) **Functions of composite broker** — A composite broker shall carry out any one or more of the functions mentioned in regulations 3 and 4.
- 6) **Application for grant of licence** — (1) An application by a person for grant of a licence as an insurance broker shall be made in Form A to the Authority.
- (2) The application under sub-regulation (1) shall be made for any one or more of the following categories, namely :
- (a) direct broker;
 - (b) reinsurance broker;
 - (c) composite broker;
- alongwith the requisite fees as specified in regulation 18.
- 7) **Application to conform to the requirements** — An application, not complete in all respects and not conforming to the instructions specified in the Form A and these regulations, shall be rejected.
- Provided that, before rejecting any such application, the applicant shall be given a reasonable opportunity to complete the application in all respects and rectify the errors, if any.
- 8) **Furnishing of information, clarification and personal representation** —
- (1) The Authority may require an applicant to furnish any further information or clarification for the purpose of disposal of the application, and, thereafter, in regard to any other matter as may be deemed necessary by the Authority.

- (2) The applicant or its principal officer shall, if so required, appear before the Authority for a personal representation in connection with an application.

9) **Consideration of application—**

- (1) The Authority while considering an application for grant of a licence shall take into account, all matters relevant to the carrying out of the functions by the insurance broker.

- (2) Without prejudice to the above, the Authority in particular, shall take into account the following, namely:-

- (A) whether the applicant is not suffering from any of the disqualifications specified under sub-section (5) of section 42 D of the Act;
- (B) whether the applicant has the necessary infrastructure, such as, adequate office space, equipment and trained manpower to effectively discharge his activities;
- (C) whether the applicant has in his employment a minimum of two persons who have the necessary qualifications specified in clause (F) below and experience to conduct the business of insurance broker;
- (D) whether any person, directly or indirectly connected with the applicant, has been refused in the past the grant of a licence by the Authority.

Explanation : For the purposes of this sub-clause, the expression “directly or indirectly connected” means a relative in the case of an individual, and in the case of a firm or a company or a body corporate, an associate, a subsidiary, an interconnected undertaking or a group company of the applicant . It is hereby clarified that these terms shall have the same meanings as ascribed to them in the Companies Act, 1956 (1 of 1956) or MRTP Act, 1969 (54 of 1969), as the case may be.

- (E) whether the applicant fulfils the capital requirements as specified in regulation 10 and deposit requirements as specified in regulation 22;

- (F) whether the principal officer of the applicant -

- (i) possesses the minimum qualification of :

- (a) Bachelors/ Masters degree in Arts, Science, or Social Sciences or Commerce or its equivalent from any institution/ university recognized by any State Government or the Central Government; or
- (b) Bachelor’s degree in engineering or its equivalent from any institution/ university recognized by any State government or the Central government; or
- (c) Bachelor’s degree in law or its equivalent from any institution/ University recognized by any State Government or the Central Government; or
- (d) Masters in Business Administration or its equivalent from any institution/ university recognized by any State Government or the Central Government; or
- (e) Associate/ Fellow of the Insurance Institute of India, Mumbai; or
- (f) Associate/ Fellow of the Institute of Risk Management, Mumbai; or

- (g) any post graduate qualification of the Institute of Insurance and Risk Management, Hyderabad; or
 - (h) Associate/ Fellow of the Institute of Chartered Accountants of India , New Delhi; or
 - (i) Associate/ Fellow of the Institute of Cost and Works Accountants of India, Kolkata; or
 - (j) Associate/ Fellow of the Institute of Company Secretaries of India, New Delhi; or
 - (k) Associate/ Fellow of the Actuarial Society of India; or
 - (l) Certified Associateship of the Indian Institute of Bankers, Mumbai; or
 - (m) any other qualification specified from time to time by the Authority under these regulations; and
- (ii) the principal officer of the applicant has received at least one hundred hours of theoretical and practical training from an institution recognised by the Authority from time to time.

Provided that where the principal officer of the applicant :

- (a) has been carrying on reinsurance related activity or insurance consultancy for a continuous period of seven years, preceding the year in which such an application is made; or
 - (b) has for a period of, not less than seven years prior to the application made to the Authority has been a principal underwriter or has held the position of a Manager in any one of the nationalised insurance companies in India; or
 - (c) is an Associate/ Fellow of the Insurance Institute of India, Mumbai; or Associate/ Fellow of the Institute of Risk Management, Mumbai; or Associate/ Fellow of the Actuarial Society of India; or any post graduate qualification of the Institute of Insurance and Risk Management, Hyderabad; the theoretical and practical training from an institution recognised by the Authority from time to time according to a syllabus approved by the Authority shall be fifty hours.
- (iii) has passed an examination, at the end of the period of training mentioned in the proviso above, conducted by the National Insurance Academy, Pune or any other examining body recognised by the Authority.
- (G) Whether the principal officer has not violated the code of conduct as specified in Schedule III to these regulations;
 - (H) that the applicant is not engaged in any other business other than the main objects of the applicant; and
 - (I) the Authority is of the opinion that the grant of licence will be in the interest of policyholders.

Exception: In the case of applications made to the Authority immediately following the notification of these regulations, the requirements under sub-regulation (2)(C) shall stand modified to the extent that instead of two qualified persons mentioned in the requirement be scaled down to one person, who should have qualified himself at the latest by the time of the grant of a licence under these regulations. This exception may be available only to applications made to the authority upto 31st March, 2003.

- (3) Any employee responsible for soliciting and procuring insurance business on behalf of an insurance broker shall also have to fulfill the requirements mentioned in sub-regulations (1) and (2) above and a list of such employees need to be provided to the Authority and acknowledged by it.

10) Requirements of Capital—

- (1) Any applicant seeking to become an insurance broker under these regulations should satisfy the following conditions:
- (i) it shall have a minimum amount of capital as mentioned below:
- | <u>Category</u> | <u>Minimum amount (Rupees)</u> |
|------------------------|---|
| (a) Direct broker | |
| (b) Reinsurance broker | |
| (c) Composite broker | fifty lakhs two hundred lakhs two hundred and fifty lakhs |
- (ii) the capital in the case of a company limited by shares and a cooperative society shall be in the form of equity shares ;
- (iii) the capital in the case of other applicants shall be brought in cash;
- (iv) the applicant shall exclusively carry on the business of an insurance broker as licensed under these regulations.
- (2) No part of the capital of an applicant shall be held by a non-Indian interest beyond 26% at any time. For the purposes of these regulations, the calculations of non-Indian interest shall be made in the same manner as specified in Insurance Regulatory And Development Authority (Registration of Indian Insurance Companies) Regulations, 2000 for an insurer.

- 11) Procedure for licensing** — The Authority on being satisfied that the applicant fulfills all the conditions specified for the grant of licence, shall grant a licence in Form B and send an intimation thereof to the applicant mentioning the category for which the Authority has granted the licence. The licence shall be issued subject to the insurance broker adhering to the conditions and the code of conduct as specified by the Authority from time to time.

- 12) Validity of licence** — A licence once issued shall be valid for a period of three years from the date of its issue, unless the same is suspended or cancelled pursuant to these regulations.

13) Renewal of licence —

- (1) An insurance broker may, within thirty days before the expiry of the licence, make an application in Form A to the Authority for renewal of licence.

Provided however that if the application reaches the Authority later than that period but before the actual expiry of the current licence, an additional fee of rupees one hundred only shall be payable by the applicant to the Authority.

Provided further that the Authority may for sufficient reasons offered in writing by the applicant for a delay not covered by the previous proviso, accept an application for renewal after the date of the expiry of the licence on a payment of an additional fee of seven hundred and fifty rupees only by the applicant.

- (2) An insurance broker before seeking a renewal of licence, shall have completed, atleast twenty five hours of theoretical and practical training, imparted by an institution recognized by the Authority from time to time.

- (3) The application for a renewal, under sub-regulation (1) shall be dealt with in the same manner as is specified under regulation 9.
- (4) The Authority, on being satisfied that the applicant fulfills all the conditions specified for a renewal of the licence, shall renew the licence in Form B for a period of three years and send an intimation to that effect to the applicant.
- (5) An insurance broker licensed under these regulations for a specified category may also apply for the grant of a licence by the Authority for any other category by fulfilling the requirements of these regulations. However, such application shall be made only after a lapse of one year from the grant of a licence in the first instance.

14) Procedure where a licence is not granted —

- (1) Where an application for grant of a licence under regulation 6 or of a renewal thereof under regulation 13, does not satisfy the conditions set out in regulation 9, the Authority may refuse to grant the licence.

Provided that no application shall be rejected unless the applicant has been given a reasonable opportunity of being heard.

- (2) The refusal to grant a licence shall be communicated by the Authority within thirty days of such refusal to the applicant stating therein the grounds on which the application has been rejected.
- (3) Any applicant, if aggrieved by the decision of the Authority, may apply within a period of thirty days from the date of receipt of such intimation, to the Chairman of the Authority for a reconsideration of its decision.
- (4) The Chairman of the Authority shall consider such an application and communicate his decision thereon to the applicant in writing within six weeks of the receipt thereof.

15) Effect of refusal to grant licence — Any applicant, whose application for grant of a licence under regulation 6 or of a renewal thereof under regulation 13 has been refused by the Authority, shall, on and from the date of the receipt of the communication under regulation 13(2) cease to act as an insurance broker. He, however, shall continue to be liable to provide services in respect of contracts already entered into through him. Such a service shall continue only upto the period of expiry of those current contracts, details of which shall be disclosed to the Authority on receipt of the communication under regulation 13.

16) Issue of a duplicate licence —

- (1) In the event of a licence being lost or destroyed or mutilated, an insurance broker shall submit to the Authority an application alongwith a fee of rupees one thousand requesting for the issue of a duplicate licence and with a declaration giving full details regarding the issue of the licence and its loss or destruction or mutilation.
- (2) The Authority, after satisfying itself that the original licence has been lost, destroyed or mutilated, shall issue a duplicate licence in Form B with an endorsement thereon that it is a duplicate one.

17) Action against a person acting as an insurance broker without a valid licence—

- (1) Notwithstanding and without prejudice to initiation of any criminal proceedings against any person, who acts as an insurance broker without holding a valid licence issued under these regulations, the Authority may invoke against such a person penal action under the Act.
- (2) Where the person falling under sub-regulation (1), is a company or firm or body corporate, without prejudice to any other proceedings which may

be taken by the Authority against the company or firm or body corporate, every director, manager, secretary or other officer of the company or body corporate, and every partner of the firm, who is knowingly a party to such a contravention shall also be liable to be proceeded against.

18) Payment of fees and the consequences of failure to pay fees —

- (1) Every applicant eligible for the grant of a licence shall pay such fees in such a manner and within such a period as specified in Schedule II.
- (2) Where an insurance broker fails to pay the annual fees payable under sub-regulation (1), the Authority may suspend the licence, whereupon the insurance broker shall cease to carry on business for the period during which the suspension subsists.

19) Remuneration – (1) No insurance broker shall be paid or contract to be paid by way of remuneration (including royalty or licence fees or administration charges or such other compensation), an amount exceeding:

- (A) on direct general insurance business -
 - (i) on tariff products:
 - a. 10 per cent of the premium on that part of the business which is compulsory under any statute or any law in force;
 - b. 12½ per cent of the premium on others.
 - (ii) on non- tariff products:

17½ per cent of the premium on direct business.
 - (B) on direct life insurance business -
 - (i) individual insurance
 - (a) 30 per cent of first year's premium
 - (b) 5 per cent of each renewal premium
 - (ii) annuity
 - (a) immediate annuity or a deferred annuity in consideration of a single premium, or where only one premium is payable on the policy:

2 per cent of premium
 - (b) deferred annuity in consideration of more than one premium:
 - (i) 7½ per cent of first year's premium
 - (ii) 2 per cent of each renewal premium
 - (iii) group insurance and pension schemes:
 - (a) one year renewable group term insurance, gratuity, superannuation, group savings linked insurance —

7½ per cent of risk premium
- Note: Under group insurance schemes there will be no remuneration for the savings component.
- (b) single premium -

2 per cent of risk premium
 - (c) annual contributions, at new business procurement stage -

5 per cent of non risk premium with a ceiling of Rupees three lakhs per scheme.
 - (d) single premium new business procurement stage -

0.5 per cent with a ceiling of Rupees five lakhs per scheme.

- (e) remuneration for subsequent servicing -
 - (i) one year renewable group term assurance -
2 percent of risk premium with a ceiling of rupees 50, 000/- per scheme.
- (C) on reinsurance business-
 - (i) as per market practices prevalent from time to time.

Explanation: For purposes of the procurement of business, an insurer shall not pay an agency commission, allow a special discount, and pay a remuneration to brokers for the same insurance contract.

- (2) The settlement of accounts by insurers in respect of remuneration of brokers shall be done on a monthly basis and it must be ensured that there is no cross settlement of outstanding balances.

20) Ceiling on business from single client –

- (1) The business of the insurance broker shall be carried in such a manner that, not more than 50 percent of the premium (quantum, receipts, etc. as the case may be) in the first year of business, 40 percent of the premium in the second year of business, and 30 percent of the premium from the third year of business onwards shall emanate from any one client.

Note: For the purposes of this regulation, the term “client” shall include, in the case of a firm or a company, an associate or a subsidiary or a group concern under the same management.

- (2) The decision of the Authority as to whether a company, a business or an organisation is under the same management shall be final.

21) Code of conduct — Every insurance broker shall abide by the Code of Conduct as specified in Schedule III.

22) Deposit requirements — (1) Every insurance broker shall before the commencement of his business, deposit and keep deposited with any scheduled bank a sum equivalent to 20% of the initial capital in fixed deposit, which shall not be released to him unless the prior permission of the Authority is obtained. Provided that the Authority may impose a separate limit of deposit, in any case not exceeding Rupees one hundred lakhs, for a person covered by regulation 2(1)(j)(v).

- (2) Every insurance broker shall furnish to the Authority as and when called upon to do so a statement certified by the Bank in which such fixed deposit is kept.

23) Segregation of insurance money — (1) The provisions of section 64VB of the Act shall continue to determine the question of assumption of risk by an insurer.

- (2) In the case of reinsurance contracts, it may be agreed between the parties specifically or as part of international market practices that the licensed reinsurance broker or composite broker can collect the premium and remit to the reinsurer and/or collect the claims due from the reinsurer to be passed on to the insured. In these circumstances the money collected by the licensed insurance broker shall be dealt with in the following manner:
 - (a) he shall act as the trustee of the insurance money that he is required to handle in order to discharge his function as a reinsurance broker and for the purposes of this regulation it shall be deemed that a payment made to the reinsurance broker shall be considered as payment made to the reinsurer;

- (b) ensure that 'insurance money' is held in an 'Insurance Bank Account' with one or more of the Scheduled Banks or with such other institutions as may be approved by the Authority;
- (c) give written notice to, and receive written confirmation from, a bank, or other institution that he is not entitled to combine the account with any other account, or to exercise any right of set-off, charge or lien against money in that account;
- (d) ensure that all monies received from or on behalf of an insured is paid into the 'Insurance Bank Account' which remains in the 'Insurance Bank Account' to remain in deposit until it is transferred on to the reinsurer or to the direct insurer.
- (e) ensure that any refund of premium which may become due to a direct insurer on account of the cancellation of a policy or alteration in its terms and conditions or otherwise shall be paid by the reinsurer directly to the direct insurer.
- (f) Interest on recovery/payment received shall be for the benefit of the direct insurer or reinsurer;
- (g) only remove from the 'Insurance Bank Account' charges, fees or commission earned and interest received from any funds comprising the account;
- (h) take immediate steps to restore the required position if at any time he becomes aware of any deficiency in the required "segregated amount".

24) **Professional indemnity insurance** — (1) Every insurance broker shall take out and maintain and continue to maintain a professional indemnity insurance cover throughout the validity of the period of the licence granted to him by the Authority.

Provided that the Authority shall in suitable cases allow a newly licensed insurance broker to produce such a guarantee within fifteen months from the date of issue of original licence.

- (2) The insurance cover must indemnify an insurance broker against
 - (a) any error or omission or negligence on his part or on the part of his employees and directors;
 - (b) any loss of money or other property for which the broker is legally liable in consequence of any financial or fraudulent act or omission;
 - (c) any loss of documents and costs and expenses incurred in replacing or restoring such documents;
 - (d) dishonest or fraudulent acts or omissions by brokers' employees or former employees.
- (3) The indemnity cover —
 - (a) shall be on a yearly basis for the entire period of licence;
 - (b) shall not contain any terms to the effect that payments of claims depend upon the insurance broker having first met the liability;
 - (c) shall indemnify in respect of all claims made during the period of the insurance regardless of the time at which the event giving rise to the claim may have occurred.

Provided that an indemnity insurance cover not fully conforming to the above requirements shall be permitted by the Authority in special cases for reasons to be recorded by it in writing.

- (4) Limit of indemnity for any one claim and in the aggregate for the year in the case of insurance brokers shall be as follows :

Category of insurance broker Limit of indemnity

- (a) Direct broker three times remuneration received at the end of every financial year subject to a minimum limit of rupees fifty lakhs.
 - (b) Reinsurance broker three times remuneration received at the end of every financial year subject to a minimum limit of rupees two crores and fifty lakhs.
 - (c) Composite broker three times remuneration received at the end of every financial year subject to a minimum limit of rupees five crores
- (5) The un-insured excess in respect of each claim shall not exceed five percent of the capital employed by the insurance broker in the business.
- (6) The insurance policy shall be obtained from any registered insurer in India who has agreed to —
- (a) provide the insurance broker with an annual certificate containing the name and address, including the licence number of the insurance broker, the policy number, the limit of indemnity, the excess and the name of the insurer as evidence that the cover meets the requirements of the Authority;
 - (b) send a duplicate certificate to the Authority at the time the certificate is issued to the insurance broker ; and
 - (c) inform the insurer immediately of any case of voidance, non-renewal or cancellation of cover mid-term.
- (7) Every insurance broker shall—
- (a) inform immediately the Authority should any cover be cancelled or voided or if any policy is not renewed;
 - (b) inform immediately the insurer in writing of any claim made by or against it;
 - (c) advise immediately the insurer of all circumstances or occurrences that may give rise to a claim under the policy ; and
 - (d) advise the Authority as soon as an insurer has notified that it intends to decline indemnity in respect of a claim under the policy.

25) Maintenance of books of account, records, etc. —

- (1) Every insurance broker shall prepare for every accounting year —
- (i) a balance sheet or a statement of affairs as at the end of each accounting period;
 - (ii) a profit and loss account for that period;
 - (iii) a statement of cash/fund flow;
 - (iv) additional statements on insurance broking business as may be required by the Authority.

Note: For purposes of this regulation, the accounting year shall be a period of 12 months (or less where a business is started after 1st April) commencing on the first day of the April of an year and ending on the 31st day of March of the year following, and the accounts shall be maintained on accrual basis.

- (2) Every insurance broker shall submit to the Authority, a copy of the audited financial statements as stated in sub-regulation (1) alongwith the auditor's

report thereon within ninety days from the close of the accounting year alongwith the remarks or observations of the auditors, if any, on the conduct of the business, state of accounts, etc., and a suitable explanation on such observations shall be appended to such accounts filed with the Authority.

- (3) Every insurance broker shall, within ninety days from the date of the Auditor's report take steps to rectify any deficiencies, made out in the auditor's report and inform the Authority accordingly.
 - (4) All the books of account, statements, document, etc., shall be maintained at the head office of the insurance broker or such other branch office as may be designated by him and notified to the Authority, and shall be available on all working days to such officers of the Authority, authorised in this behalf by it for an inspection.
 - (5) All the books and documents, statements, contract notes etc., referred to in this regulation and maintained by the insurance broker shall be retained for a period of atleast ten years from the end of the year to which they relate.
- 26) **Submission of half-yearly results** — (1) Every insurance broker shall before 31st October and 30th April each year furnish to the Authority a half-yearly un-audited financial statement containing details of performance, financial position, etc., alongwith a declaration confirming the fulfillment of requirements of capital in accordance with the provisions of regulation 10 and deposit requirements in accordance with the provisions of regulation 22.
- (2) Failure to comply with the regulation of sub-regulation (1) will lead to an action, in accordance with the provisions of regulation 34 being taken against the insurance broker.
- 27) **Internal control and systems** — Every insurance broker shall ensure that a proper system of internal audit is practised in business and that his internal controls and systems are adequate for the size, nature and complexity of his business.
- 28) **Disclosures to the Authority** — (1) An insurance broker shall disclose to the Authority, as and when required by it, in any event not later than thirty days of a requisition, the following information, namely—
- (i) his responsibilities with regard to the placement of an insurance contract;
 - (ii) any change in the information or particulars previously furnished, which have a bearing on the licence granted to it;
 - (iii) the names of the clients whose insurance portfolio he manages or has managed;
 - (iv) any other requirement specified by the Authority from time to time.
- Provided that in case of a person specified in regulation 2(1)(j)(v) the Authority may call for and obtain such information as it deems fit.
- 29) **Authority's right to inspect** — (1) The Authority may appoint one or more of its officers as an "inspecting authority" to undertake inspection of the premises of the insurance broker to ascertain and see how the business is carried on, and also to inspect the books of accounts, records and documents of the insurance broker for any of the purposes specified in sub-regulation (2).
- (2) The purposes referred to in sub-regulation (1) may be as follows, namely :
 - (i) to ensure that the books of account are being maintained in the manner required

- (ii) to ensure that the provisions of the Act, rules, regulations are being complied with;
 - (iii) to investigate the complaints received from any insured, any insurer, other insurance brokers or any other person on any matter having a bearing on the activities of the insurance broker; and
 - (iv) to investigate the affairs of the insurance broker *suo motu* in the, interest of proper development of insurance business or in policy holders' interest.
- 30) **Notice before inspection** — (1) Before undertaking an inspection under regulation 29, the Authority shall give a notice of ten days to an insurance broker for that purpose.
- (2) Notwithstanding anything contained in sub-regulation (1), where the Authority is satisfied that in the interests of the policyholders no such notice shall be given, it may, for reasons recorded in writing, direct that the inspection of the affairs of the insurance broker be taken up without such notice.
 - (3) The insurance broker shall allow the inspecting authority to have full access to the premises occupied by such insurance broker or by any other person on his behalf and also extend all facilities for examining books, records, documents and computer data in the possession of the insurance broker.
 - (4) The inspecting authority, in the course of inspection, shall be entitled to examine or record statements of any principal officer or employee of the insurance broker and have the powers to seize or make copies of documents/ records.
 - (5) It shall be the duty of every such person to give to the inspecting authority all assistance in connection with the inspection which the insurance broker may reasonably be expected to give.
 - (6) Failure to comply with the requirements of the Authority in this regard or failure to cooperate with the inspecting officers shall result in suspension of licence.
- 31) **Submission of report to the Authority** — The inspecting authority shall submit an inspection report to the Authority within 90 days of the completion of the inspection.
- 32) **Communication of findings, etc.**— (1) The Authority shall, after consideration of the inspection report, communicate its findings to the insurance broker and give him a reasonable opportunity of being heard before any action is taken by the Authority on the findings of the inspecting authority.
- (2) On receipt of the explanation, if any, from the insurance broker, the Authority may direct the insurance broker to take such measures as the Authority may deem fit.
- 33) **Appointment of investigator** — (1) The Authority may appoint a chartered accountant or an actuary or any qualified and experienced individual in the field of insurance to investigate the books of accounts or the affairs of the insurance broker.

Provided that the person so appointed shall have the same powers of the inspecting authority as are mentioned in regulation 29 and the obligations of the insurance broker in regulation 29 shall be applicable to the investigation under this regulation.

Explanation - For the purposes of this regulation the expression “chartered accountant” shall have the same meaning as given in Section 226 of the Companies Act, 1956 (1 of 1956), and the expression ‘actuary’ shall mean a member of the Actuarial Society of India.

(2) The expenses and costs of such an investigation shall be recovered by the Authority from the insurance broker whose affairs had been caused to be investigated.

34) Cancellation or suspension of licence with notice —

(1) The licence of an insurance broker may be cancelled or suspended after due notice and after giving him a reasonable opportunity of being heard if he —

- (a) violates the provisions of the Insurance Act, 1938 (4 of 1938), Insurance Regulatory And Development Authority Act, 1999 (41 of 1999) or rules or regulations, made thereunder;
- (b) fails to furnish any information relating to his activities as an insurance broker as required by the Authority;
- (c) furnishes wrong or false information; or conceals or fails to disclose material facts in the application submitted for obtaining a licence;
- (d) does not submit periodical returns as required by the Authority;
- (e) does not co-operate with any inspection or enquiry conducted by the Authority;
- (f) fails to resolve the complaints of the policy holders or fails to give a satisfactory reply to the Authority in this behalf;
- (g) indulges in rebates or inducements in cash or kind to a client or any of the client’s directors or other employees or any person acting as an introducer;
- (h) is found guilty of misconduct or his conduct is not in accordance with the Code of Conduct specified in Schedule III;
- (i) fails to maintain the capital requirements in accordance with the provisions of regulation 10;
- (j) fails to pay the fees or the reimbursement of expenses under these regulations;
- (k) violates the conditions of licence;
- (l) does not carry out his obligations as specified in the regulations;
- (m) if the principal officer does not acquire practical training and pass the examination within the stipulated period as specified in regulation 9.

(2) In the circumstances where the Authority feels that the establishment of an insurance broker is only to divert funds within a group of companies or their associates, it can after due enquiries made by it cancel the licence granted to the insurance broker.

35) Cancellation or suspension of licence without notice — The licence of an insurance broker may be cancelled or suspended without notice, if he —

- (a) violates any one or more of the requirements under the code of conduct specified in Schedule III;
- (b) is found guilty of fraud, or is convicted of a criminal offence;
- (c) commits such defaults, which require immediate action in the opinion of the Authority, provided that the Authority has communicated the reasons for the cancellation in writing;

- (d) the insurance broker has not commenced the business within six months of being granted a licence.
- 36) **Manner of making order of cancellation/suspension with notice**— The licence of an insurance broker shall not be cancelled unless an enquiry has been held in accordance with the procedure specified in regulation 37.
- 37) **Manner of holding enquiry before suspension or cancellation** —
- (1) For the purpose of holding an enquiry under regulation 36, the Authority may appoint an enquiry officer;
 - (2) the enquiry officer shall issue to the insurance broker a notice at the registered office or the principal place of business of the insurance broker, as the case may be, calling for such information as he considers necessary for the conduct of an enquiry;
 - (3) the insurance broker may, within fifteen days from the date of receipt of such a notice, furnish to the enquiry officer a reply together with copies of documentary or other evidence relied on by him or sought by the enquiry officer;
 - (4) the enquiry officer shall, give a reasonable opportunity of hearing to the insurance broker to enable him to make submissions in support of his reply made under sub-regulation(3);
 - (5) the insurance broker may either appear in person or through any person duly authorised by him to present its case;
 - (6) if it is considered necessary, the enquiry officer may require the Authority to present its case through one of its officers; and
 - (7) the enquiry officer shall, after taking into account all relevant facts and submissions made by the insurance broker, submit a report to the Authority within 90 days of the completion of the enquiry proceedings.
- 38) **Show-cause notice and order** — (1) On receipt of the report from the enquiry officer, the Authority shall consider it and issue a show-cause notice to the insurance broker if the contents of the report warrant a suspension or cancellation of the licence granted to him.

Provided that no such notice is required, in case the provisions of regulation 35 are attracted.

- (2) The insurance broker shall within twenty-one days of the date of receipt of the show cause notice send a reply to the Authority.
 - (3) The Authority after considering the reply to the show cause notice shall, as soon as possible, but not later than thirty days from the receipt of the reply, pass such an order as it deems fit.

Provided, however, where the insurance broker on serving of the notice under this regulation fails to furnish any reply within the stated period, the Authority may after the expiry of such time proceed to decide the case *ex parte*.
 - (4) The Authority shall send a copy of the order made under clause (3) to the insurance broker.
- 39) **Publication of order of suspension or cancellation** — The order of cancellation or suspension of the licence made under sub-regulation (3) of regulation 38, shall be published in one of the daily newspapers in the English language and one newspaper in the regional language as the Authority may consider fit.

40) Effect of cancellation or suspension of licence—

- (1) On and from the date of suspension or cancellation of the licence, the insurance broker, shall cease to act as an insurance broker.
- (2) An insurance broker however shall continue to service the contracts already concluded through him for a period of six months within which suitable arrangements shall be made by him for having the contracts attended to by another licensed insurance broker.
- (3) The Authority in such an event may pass such an order as it thinks fit for the disposal of the deposit of the insurance broker made under regulation 22.

41) General —

- (1) From the date of commencement of these regulations no person can function as a broker or an insurance intermediary unless a licence has been granted to him by the Authority under these regulations.
- (2) Any disputes arising between an insurance broker and an insurer or any other person either in the course of his engagement as an insurance broker or otherwise may be referred to the Authority by the person so affected; and on receipt of the complaint or representation, the Authority may examine the complaint and if found necessary proceed to conduct an enquiry or an inspection or an investigation in terms of these regulations.