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IRDA: Regulating Insurance Sector in India

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ABSTRACT

The insurance sector in India is faster high-growing at a rapid rate of 12-18%. In addition to banking services, insurance contributes about 6.7% to the country's GDP. A well-proportioned and developed insurance sector benefits economic development since it provides long-term funding to develop infrastructure and strengthen the country's risk appetite.

In April 2000, The Regulatory Development Authority of India was established by the Government of India, as an independent statutory body. Lokhande M. A. (2006) said, there is need of better coordination and cooperation among Grahak Panchayats, Consumer Rights Forums and Government Authorities to Protect Consumer Interests. The fees charged for complaints should be waived off for needy customers, especially poor customers. Seller, dealer, trade persons involved should comply with corporate ethics and strive to provide maximum satisfaction to consumers and society.

The main goal behind the establishment of IRDA involves the regular supervision, direction and control of various activities of the insurance sector of the Country. It has full powers as insurance administrator in the Indian insurance sector. A brief description of the role and functions of IRDA and its relationship with insurance sectors are explored in this paper.

Keywords: Insurance, IRDA, Policy, Insurance Awareness, Grievance Redressal

Introduction

Many of us are aware of the term "IRDA". It stands for Insurance Regulatory and Development Agency. The Authority serves as the regulatory body of the insurance industry in India, overseeing the functions of life-term insurance and general insurance companies operating thereby. The IRDA's main objectives are to protect the interests of policyholders and to regulate the insurance industry. One needs to check apex insurance providers in India to know about the different functions and roles of IRDA in the Indian insurance sector. IRDA is a regulatory agency governed by the Insurance Regulatory and Development Authority Act 1999.

Role of IRDA can be recognised by seeing the preamble of the Act. "An Act to provide for the establishment of an Authority to protect the interests of holders of insurance policies, to regulate, promote and ensure orderly growth of the insurance industry and for matters connected therewith or incidental thereto and further to amend the Insurance Act, 1938, the Life Insurance Corporation Act, 1956 and the General Insurance Business (Nationalisation) Act, 1972." The IRDAI Act allows a complete regulation of the insurance sector in India (all the insurance business in India is regulated by IRDAI). The IRDAI plays a key role in the development of regulatory mechanism of insurance in the insurance sector.

To examine the composition of the insurance sector and to analyse the rules and regulations to make it more effective and efficient, a committee was established by the Government of India. As a result, in 1999, IRDAI was presented in the parliament. The bill was further discussed and debated in the parliament before it finally became the Insurance Regulatory and Development Authority of India (IRDAI) Act of 1999.

Earlier, until 2000, The Government of India was the only regulatory body for the insurance industry. However, The recommendation of the Malhotra Committee Report in 1999, resulted in the establishment of an independent statutory body, IRDAI. Moreover , by August 2000, the IRDAI was in action, accepting applications for registrations and also allowed foreign investors, including FPIs, to invest in preference shares and subordinated debt issued by Indian insurers, expanding their pools of capital to fund their business growth in the world's fastest growing large economy.

Sveral rules and regulations has been laid down in the Insurance Act of 1938. These regulations range from registration of insurance companies operating in the country, to safeguarding and protecting the interest of policyholders. If data to be believed, by September 2020, registered companies under the IRDAI were 55 in total, out of which, 24 Life Insurance companies were there while General Insurance companies were about 31.

IRDA: General Role

A. To protect and secure the interests of the policy-holders by providing fair treatment.

B. To bring adequate growth of the insurance industry (including annuity and superannuation payments), for the welfare of the common man, and to provide long term funds for accelerating growth in the economy.

C. In order to set, promote, monitor and enforce high standards of integrity, financial ethics, fair dealing and competence of those it regulates.

D. To guarantee speedy dispute settlement for conflicts, to prevent frauds and other malpractices and provides effective grievance redressal forum.

E. To reduce arbitrariness, by promoting fairness, transparency and orderly conduct in financial markets dealing with insurance.

F. To build a reliable management information system to enforce high standards of financial stability amongst market players.

G. To take proper and quick actions where such standards are inadequate or ineffectively enforced.

H. To bring about optimum amount of self-regulation in day-to-day working of the industry consistent with the requirements of prudential regulation.

Insurance Sector in India: Background

In 1818, with the establishment of the Oriental Life Insurance Company in Calcutta, India saw the emergence of life insurance business. However, this company didn’t survived long, and came to an end in 1834.

In 1829, there was Madras Equitable which started transacting life insurance business in the presidency states of Madras. 1870 witnessed the commencement of the British Insurance Act and by the last three decades of the 19th century, the Bombay Mutual (1871), Oriental (1874) and Empire of India (1897) were started in the Bombay Residency. This era, made good business in India, as was dominated by foreign insurance offices, namely Albert Life Assurance, Royal Insurance, Liverpool and London Globe Insurance whereas the Indian offices found it hard to compete with the foreign companies.

The beginning of the 20th century brought good signs for Indian insurance companies, as in 1914, the Indian government began issuing statements from Indian insurance companies. The Indian Life Assurance Companies Act of 1912 was the first legislative measure to regulate life insurance business. The Indian Insurance Companies Act of 1928 was enacted to enable the Government to cumulate statistical information on life and general insurance business conducted in India by Indian and foreign insurance companies (including annuity companies). In order to protect the interests of the insurance public, in 1938 the previous laws were consolidated and came up as the Insurance Act 1938 containing comprehensive provisions for the effective control of the activities of insurance companies. The Insurance Amendment Act, 1950 abolished key institutions. However, there were many insurance companies and the competition was fierce. There were also contentions of trade malpractices. Therefore, the Indian government has decided to nationalize the insurance companies. On January 19, 1956, the Life Insurance Nationalization Ordinance was promulgated, establishing a life insurance sector and Life Insurance corporation in the same year. LIC has acquired 245 Indian and foreign insurance companies, 154 Indian, 16 non-Indian and 75 utility companies. The LIC held a monopoly until the late 1990s when the insurance sector reopened to the private sector. Property and casualty insurance in India has its roots in the establishment of Triton Insurance Company Ltd. in Calcutta by the British in 1850. In 1907, Indian Mercantile Insurance Limited was established. It was the first company to handle all lines of property and casualty insurance business. In 1957, the General Insurance Council, a division of the Insurance Association of India, was established. The General Insurance Council has developed a code of conduct to ensure fair and stable business practices. In 1968, the Insurance Act was amended to regulate investments and set minimum solvency margins. At that time, a Customs Advisory Committee was also established. In 1972, the General Insurance Business (Nationalization) Act was passed and on 1 January 1973 the general insurance business was nationalized. 107 insurance companies have merged and grouped into four companies: National Insurance Company Ltd., New India Assurance Company Ltd. , Oriental Insurance Company Ltd. and United India Insurance Company Ltd. The General Insurance Corporation of India was incorporated as a company in 1971 and it commence business on January 1st 1973.

The R.N. Malhotra Committee: Emergence of IRDA

In this millenary, insurance has come full circle on a journey of nearly 200 years. The sector's reopening process began in this early 1990s and has been opened up significantly over the past decade. It was 1993, when the government of India set up a committee chaired by his former RBI governor, R.N. Malhotra, to put forward findings and recommendations on reforming the insurance sector. Its purpose was to supplement the reforms introduced in the financial sector. The Commission submitted its report in 1994 wherein, it recommended permission for the private industry to enter in the insurance sector. They also argued that foreign companies would be allowed to enter, preferably through Indian floating companies, which are joint ventures with Indian partners. The insurance industry will be regulated and developed in accordance with the recommendations of the Malhotra Commission report. The Insurance Regulation and Development Authority (IRDA) was introduced as an autonomous body in 1999, following the recommendations of the Malhotra Committee report. And in April 2000 IRDA was established as a statutory body. One of IRDA's main objectives is to promote competition and customer satisfaction by increasing consumer choice and reducing premiums while maintaining the financial security of the insurance market. IRDA, for the first time opened the market in August 2000 and provided application forms for registrations. Foreign companies could hold up to 26% of the shares. The Authority has the power to make regulations under Section 114A of the Insurance Act of 1938, and since 2000 have enacted various regulations ranging from registering companies to carry on insurance business to protecting the interests of policyholders.

The subsidiaries of the General Insurance Corporation of India, in December 2000, were restructured as independent companies and at the same time GIC was converted into a national re-insurer.

In present time, there are currently 34 general insurance companies including the ECGC and Agriculture Insurance Corporation of India while 24 life insurance companies operating in the country. The insurance sector is huge and growing at a rapid rate of 12-18%. Along with banking services, insurance services contribute about 7% to the country's GDP. A well-developed insurance sector benefits economic development as it provides long-term funding for infrastructure development while increasing the country's risk appetite.

IRDA ACT 1999: Important Provisions

An Act to provide for the formation of an organization to secure the interests of policy holders, to regulate, promote, protect and ensure orderly growth of the insurance industry and for matters connected therewith or incidental thereto and further to amend the Insurance Act, 1938, the Life Insurance Corporation Act, 1956 and the General Insurance Business (Nationalisation) Act, 1972.

Formation of Authority.

(1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, an Authority to be called "the Insurance Regulatory and Development Authority [of India]".

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at such place as the Central Government may decide from time to time.

(4) The Authority may establish offices at other places in India.

Composition of Authority.

The Authority shall consist of the following members, namely:—

(a) A Chairperson;

(b) Not more than five whole-time members;

(c) not more than four part-time members, to be appointed by the Central Government from amongst persons of ability, integrity and standing who have knowledge or experience in life insurance, general insurance, actuarial science, finance, economics, law, accountancy, administration or any other discipline which would, in the opinion of the Central Government, be useful to the Authority: Provided that the Central Government shall, while appointing the Chairperson and the whole-time members, ensure that at least one person each is a person having knowledge or experience in life insurance, general insurance or actuarial science, respectively.

Duties, Powers and Functions of the Authority.

(1) Subject to the provisions of the Act and any other law at existence, the Authority shall have all the rights to regulate, promote and ensure orderly growth of the insurance business and re-insurance business.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the powers and functions of the Authority shall include; (a) issuance of the certificate of registration to the applicant, renew certification plan, modification, withdrawal, suspention or cancellation of such registration;

(b) protection of the interests of the policy-holders in matters concerning assigning of policy, nomination by policy-holders, insurable interest, settlement of insurance claim, surrender value of policy and other terms and conditions of contracts of insurance;

(c) Specifying requirement qualifications, eligibility and practical training for intermediary or insurance intermediaries and hiring agents;

(d) Specifying the code of conduct for surveyors and loss assessors;

(e) Promoting efficiency in the conduct of insurance business;

(f) To promote and regulate professional organisations connected with the insurance and re-insurance business;

(g) To levy fees and other charges for carrying out the purposes of this Act;

(h) calling for information form, undertaking inspection of, conducting enquiries and investigations including audit of the insurers, intermediaries, insurance intermediaries and other organisations connected with the insurance business;

(I) controlling and regulating rates, advantages, terms and conditions offered by insurers in respect of general insurance business not so controlled and regulated by the Tariff Advisory Committee under section 64U of the Insurance Act, 1938 (4 of 1938);

(j) Specifying the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by insurers and other insurance intermediaries;

(k) Regulating investment of funds by insurance companies;

(l) Regulating maintenance of margin of solvency;

(m) Adjudication of disputes between insurers and intermediaries or insurance intermediaries;

(n) Supervising the functioning of the Tariff Advisory Committee;

(o) Specifying the percentage of premium income of the insurer to finance schemes for promoting and regulating professional organisations referred to in clause (f);

(p) Specifying the percentage of life insurance business and general insurance business to be undertaken by the insurer in the rural or social sector; and

(q) Exercising such other powers as may be prescribed.

Grants by Central Government.

The Central Government of India may, after due appropriation made by Parliament in the form of amendment or law in this behalf, grants Authority to make such sums of money as the Government may think fit for being utilised for the purposes of this Act.

Power of Central Government to issue directions.

(1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time: Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

Formation of Insurance Advisory Committee.

(1) The Authority may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the Insurance Advisory Committee.

(2) The Insurance Advisory Committee shall consist of not more than twenty-five members excluding ex officio members to represent the interests of commerce, industry, transport, agriculture, consumer fora, surveyors, agents, intermediaries, organisations engaged in safety and loss prevention, research bodies and employees‟ association in the insurance sector.

(3) The Chairperson and the members of the Authority shall be the ex officio Chairperson and ex officio members of the Insurance Advisory Committee.

(4) The objects of the Insurance Advisory Committee shall be to advise the Authority on matters relating to the making of the regulations under section 26.

(5) Without prejudice to the provisions of sub-section (4), the Insurance Advisory Committee may advise the Authority on such other matters as may be prescribed.

IRDA: Consumer Awareness and Education Initiative

Thursday, September 4, 2014, Press release by the Consumer Affairs Department of IRDA, states that Members of public have been receiving a lot of fake calls in the name of officials of Insurance Regulatory and Development Authority making fictitious and fraudulent offers. IRDA also issued a notice on January 29, 2014 warning public not to fall victim to such offers.

IRDA’S Caution to Public:

- IRDA does not involve directly or through any representative in sale of any kind of insurance or financial products.
- IRDA does not invest the premium received by insurance companies.

• IRDA does not announce any bonus for policyholders or insurers.

• IRDA has put in place Grievance Redressal Cell in Consumer Affairs Department, Integrated Grievance Management System and IRDA Grievance Call Centre to provide an alternate platform for registering grievances against insurers thereby facilitating resolution of customer grievances by insurers.

• IRDA or its officials dealing with Grievance Management do not make calls in relation to complaints lodged with IRDA as IRDA plays a facilitative role and does not adjudicate upon or investigate into such complaints

• Any person making any kind of transaction with such individuals / agents will be doing the same at their own risk.

IRDA has once again urged the public to remain alert and not to fall prey to frauds or scams perpetrated by miscreants who impersonate to be employees / officers of IRDA or other insurance companies. IRDA advised that if any member of the public notices such instances, he or she may lodge a police complaint giving full details, along with the details of the caller and telephone number from which the call was received, in the local police station.

Grievance redressal

IRDA Complaint Resolution Policy require all insurers to have a board-approved complaints resolution policy and appoint a grievance redressal officer at senior management level at the Corporate office / Head Office / Headquarters and grievance officer at every other offices to Configure policyholder protection committee, based on Corporate Governance Guidelines to receive and analyze complaint reports regarding grievances. Policy requires all insurers to implement automated systems for online registration and tracking of complaints such as:

System for accepting complaints by phone calls messages or emails and integrate these systems with IRDA. In addition, the guidelines include schedules for various activities related to complaints, such as: Approval, Correction, Closure, etc.

Consumer Education

Insurance is a complex financial system so special knowledge is required to understand insurance policies, terms, products, nature, their benefits, and insurance criteria and conditions. IRDA's Consumer Education Initiative aims to do just that. This ensures that consumers may identify and understand their needs, insurance policies and associated risks in order to make an informed decision when purchasing insurance.

Awareness to Insurance:

To raise awareness in the public, mainly to persons residing in the rural areas, IRDA's insurance awareness campaigns are carried out through all conceivable channels such as print and electronic media, radio/television, internet, seminars, social sites, etc.

IRDA have also launched Hindi site and printed books in the major regional languages, so as to provide information among the people all around the country in their selected language. This guarantees them to understand the policies by their own as it restricts miscommunication and any form of manipulation.

Sale /Advertising of Insurance products:

IRDA (Advertisement and Disclosure) Regulations, 2000 and other guidelines relating to advertisements are aimed at ensuring that any communication (including that on the internet) which directly or indirectly results in eventual sale or solicitation of policy should not be unfair or misleading but should contain fair information about the product on offer so that the customer can take an informed decision about choosing the insurance product according to his need.

Supreme Court on IRDA

1. **Sujata Singh v. Divisional Manager National Insurance Company Limited (The Supreme Court Ordered IRDA to cover Personnel Accidents Cover of other than the Owner)**

It is also noticed that in such a circumstance though, there is use of the motor vehicle, as required under the Motor Vehicles Act, 1988, the accident had occurred without the involvement of another ‘offending’ vehicle. In such a situation, the Insurance Company, while declining to reimburse the compensation, have sought to rely on the India Motor Tariff , more particularly, Section III relating to personal accident cover for owners-drivers.

2. **KP Desai vs. United India Insurance Company, Maharashtra State Consumer Dispute (Redressal)**

When KP Desai underwent a laser eye surgery for correcting his eyesight, it cost him Rs 50,000. Desai had a health insurance policy with the United India Insurance Company since 1990, which he renewed every year. After the surgery in 1997, when he filed a claim for the surgery expenses, the company rejected it stating that the surgery was purely cosmetic and not covered by the insurance. Desai filed a complaint with the South Mumbai District

Consumer Disputes Redressal forum in 1997 and the judgement ruled in his favour in April, 2004. The insurance company then filed an appeal with the Maharashtra State Consumer Disputes Redressal Commission, where the judgement was upheld.

Conclusion

The establishment of IRDA has revolutionized the insurance industry. In the last 12 years of its establishment, the Indian insurance industry has experienced enormous growth. Prior to establishment of IRDA, LIC dominated the life insurance sector and served the needs of its clients while GIC with its four subsidiaries were the sole players in non-life insurance. The emergence of the IRDA and the opening of the insurance sector to private insurers has increased the number of insurance companies.

There are 24 insurances in life insurance and 28 insurances in non-life insurance. IRDA's role is critical : from growth in insurance penetration and density, increased insurers, more policy issuance to faster Complaint Resolution and many other aspects. So, one can say that the IRDA is successfully managing this sectoral disagreement and has been very well monitoring and regulating business across the insurance industry.

While IRDA is supposed to look into the grievance of the consumers, IRDA must also look into the grievances of hospitals and clinics which may be facing any difficulties in the matter of processing of their claims under PPN by the Third Party Administrators or the insurance companies