Insurance & Reinsurance

New Regulations for Insurers Establishing Liaison Offices Abroad

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Eligibility

Comment

In January 2007 the Insurance Regulatory and Development Authority (IRDA) issued guidelines concerning the establishment of overseas liaison offices by Indian insurers. Based on market feedback and experience, in January 2009 the IRDA issued revised guidelines entitled "Opening of Representative/Liaison Offices Overseas by an Indian Insurance Company Registered with the IRDA", which supersede those of January 2007.

Eligibility

The new guidelines define a 'representative/liaison office' to mean a place of business which acts as a channel of communication between the insurer's principal place of business or head office. A liaison office cannot directly or indirectly undertake any commercial, trading or industrial activity.

As previously, if an Indian insurer wishes to open a liaison office, it must obtain the IRDA's prior approval.

However, the new guidelines provide the following additional stipulations:

- The insurer must obtain approval or an in-principle clearance from the host country regulator.
- In deciding whether to grant permission, the IRDA will take into account:
  - the applicant's financial strength;
  - its track record on market and regulatory conduct; and
  - its history of addressing policyholder complaints.
- A liaison office can:
  - engage in development and promotional activity;
  - gather financial, economic and commercial information;
  - educate prospects about the advantages of insurance;
  - provide customer services;
  - identify prospects in the host country;
  - provide a channel of communication; and
  - conduct seminars.
- A liaison office can identify prospects among 'non-resident Indians', but underwriting must be conducted in India and all policies must be issued in Indian rupees.
- No agents may be engaged; therefore, no commission in any form may be paid.

Comment

Although it is still early days, the imposed restrictions have already begun to draw questions as to why Indian insurers are not allowed greater flexibility and why the IRDA's guidelines are more restrictive than those issued by the Reserve Bank of India. The Reserve Bank of India expressly allows an Indian insurer to pay overseas agents, but the IRDA has made it clear that its guidelines take precedence in this area. Further, if all policies are to be issued in Indian rupees only, it appears that liaison offices are to focus on non-resident Indians only. However, this also creates conflict with the Reserve Bank of India's guidance, which envisages Indian insurers writing foreign currency policies in certain instances.

It would appear that the IRDA wants to see how Indian insurers perform abroad before loosening the reins any further.

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