

Guidelines prohibit group policyholders from collecting service fees

June 7 2011

The first regulatory guidance published by the Insurance Regulatory and Development Authority (IRDA) this year was a clarification of the Guidelines on Group Insurance Policies of July 14 2005. The clarification was issued on January 4 2011 and came into effect on April 1 2011.

Section C4 of the guidelines formerly stated that:

- insurers were prohibited from making any payments to group policyholders irrespective of whether these payments were classified as management expenses, documentation expenses, profit commission, bulk discounts or payments of ‘any other description’; and
- if the group manager or policyholder wished to collect a ‘service charge’ from the insured members, it could do so, provided that it clearly disclosed the service charge as an additional cost (and not as premium) in its communications with the insured members.

Through its circular of January 4 2011, the IRDA reiterated the first portion of Section C4 of the guidelines but deleted the second portion, thereby prohibiting group policyholders from collecting service charges from insured members. The circular also prohibits the group organiser or policyholder from collecting any amount other than an insurance premium (payable in full to the insurer) with regard to the group insurance policy.

This amendment has made with the objective of lowering the ultimate costs of insurance to the insured members of group insurance policies. It appears to follow instances reported in the recent past where group policyholders had collected fairly substantial service fees without the consent of insured members, especially in cases where cover under the group policy was offered along with other related financial products.

However, this amendment to the guidelines effectively means that group policyholders will have to bear their own costs entirely for the administrative functions performed for the insurer and insured members. The guidelines prohibit an insurer from paying management or documentation costs to the group policyholder, but allow a group policyholder to perform specific administrative functions for the insurer under the group policy (eg, the issue of certificates of insurance) for which the insurer is ultimately responsible towards the insured members.

For employer-employee group insurance schemes (which are primarily for an employer’s liabilities) or some non-employer-employee insurance schemes where the group policyholder is the primary beneficiary (eg, credit-linked insurance), it may seem appropriate for a group policyholder to internalise its own costs of

administering the policy. However, if the group policyholder's administrative costs must be internalised completely, even on non-employer-employee schemes that are merely organised by an entity and through which that entity derives no benefit, it is likely that policies may be discontinued or administered incorrectly.

The amendment aims to lower costs for policyholders, but if it leads to policies being discontinued (given that most group policies are annually renewable), it could result in individuals having to seek cover afresh or claims against insurers on servicing issues.

**For further information on this topic please contact Tuli & Co by telephone
+91 11 2464 0906, fax +91 2464 0904 or email lawyers@tuli.biz**

www.tuli.biz

Originally edited by, and first published on, www.internationallawoffice.com