Article

Insurance Laws (Amendment) Bill – the wait continues

12 June 2012

For several years stakeholders in the Indian insurance industry, as well as various overseas insurance and reinsurance companies, have been awaiting the passage of the Insurance Laws (Amendment) Bill 2008. However, developments in recent months indicate that the wait is not yet over.

The inception of the bill stems from March 2005 when the Insurance Regulatory and Development Authority (IRDA) set up a committee to make recommendations for the amendment of the existing insurance laws. Based on the committee's report, which was released in July 2005, and the earlier recommendations of the Law Commission, the bill was prepared and introduced in 2008. In September 2009 the bill was referred to the Parliamentary Standing Committee, which considered it until December 2011.

The bill proposes to:

- raise the existing foreign direct investment (FDI) cap from 26% to 49% (while maintaining the FDI cap at 26% for insurance cooperative societies);
- permit overseas reinsurers (which are not admitted in India) to open branch offices to carry out reinsurance business in India;
- facilitate the entry of Lloyds of London onto the market through a joint venture with Indian partners and as a branch of a foreign reinsurer; and
- lower the capital requirements for standalone health insurers to Rs50 million ($9 million).

In regard to reinsurance branch offices, the bill specifies that no foreign reinsurer shall be registered unless it holds net-owned funds of not less than Rs50 billion ($9 billion).

It is unclear whether individual members of Lloyds will also be allowed to practise in India, as the terms of the bill mention "Lloyds established under the Lloyds Act 1871". Press reports indicate that recommendations were made to the parliamentary committee that only those syndicates of Lloyds with Indian representative offices should be considered for operations in India.

The proposed increase in the FDI limit is one of the most eagerly awaited amendments in the insurance industry. This is still seen as the primary way of raising capital in insurance companies. Although initial public offering norms for life insurers were introduced in December 2011 (and should be finalised soon for general insurers), this is not seen by all as a feasible solution, given the number of private insurance companies in need of capital and the long gestation period.

However, the parliamentary committee has rejected the proposed increase to the FDI limits and recommended that the FDI cap remain at 26%. While the proposed amendments for reinsurance were broadly accepted, the government has been asked to consider the model adopted for Lloyds in China, as well as to consider including further conditions on the operation of reinsurance branches.

Although the parliamentary committee's recommendations are not binding on the government, if particular provisions have been rejected by the committee it will be hard for the government to include such provisions when the bill is introduced in Parliament.

The bill was not introduced in the Winter 2011 session of Parliament. Press reports in early 2012 indicated that the bill would be introduced in the budget session (March 12 to May 22 2012), but the FDI cap would remain at 26%. Later reports indicated that the bill would not be introduced at all in that session, and then that it would be introduced, but that the recommendation to increase the FDI cap to 49% would remain. However, when Parliament's budget session ended on May 22 2012, the bill had not been introduced.

There have been indications that the bill will be introduced in the next session of Parliament, but at present there is no firm stance on whether:

- the proposed increase of the FDI cap to 49% will remain; or
- the government will recommend additional conditions for the entry of Lloyds and the establishment of reinsurance branch offices.

However, if the government or Parliament does not approve the increase in the FDI limit, it may lead to more foreign stakeholders that currently participate in Indian insurance joint ventures exiting their investments. The uncertainty over the bill has already led to several foreign players holding back on proposed investments in the insurance and broking sector, instead opting to wait and see.

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

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