

Insurance & Reinsurance - India

A matter of emphasis: regulatory focus shifts to loss adjusters

Contributed by **Tuli & Co**

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Loss adjusters, or 'surveyors' as they are known in the Indian market, are the subject of the latest circular issued by the Insurance Regulatory and Development Authority (IRDA).

Shortly after the Indian insurance market was opened to competition, the IRDA issued its Insurance Surveyors and Loss Assessors (Licensing, Professional Requirement and Code of Conduct) Regulation 2000. This regulation was out of step with other IRDA regulations published for insurers and brokers, as it did not expressly refer to a foreign investment cap or specifically list when a surveyor's licence could be cancelled.

In March 2013 the IRDA issued its Insurance Surveyors and Loss Assessors (Licensing, Professional Requirements and Code of Conduct) Amendment Regulations 2013. The amendment regulations cover licensing, duties and responsibilities, the suspension and cancellation of licences and the further registration of corporate surveyors. In relation to the latter, the amendment regulations provide as follows:

- A corporate surveyor must be a company incorporated under the Companies Act 1956, a firm formed under the Partnership Act 1932 or a limited liability partnership incorporated under the Limited Liability Partnership Act 2008;
- The name of the corporate surveyor must include the words "insurance surveyor and loss assessors";
- There must be at least two directors/partners and no director/partner can work in the same capacity with more than one corporate surveyor; and
- Any licensed surveyor appointed as director/partner must accept work and issue reports only in his or her capacity as a director/partner of the corporate surveyor.

In a circular dated October 10 2013, but released by the IRDA on October 29 2013, the IRDA reiterated the amendment regulations and referred to eight particular provisions that require "immediate attention and necessary action from all existing and new corporate [surveyors]". These provisions include the following changes:

- The IRDA confirmed the requirement that there be at least two directors/partners, and that they accept work and issue reports only in their capacity as a director/partner of the corporate surveyor. This is suggestive perhaps of work being accepted and reports being issued independently of the corporate structure.
- Foreign ownership is restricted to 26%, in line with the rest of the insurance industry. The fact that this particular requirement is the only one to appear in a bold font suggests that the IRDA has learned of contraventions of this rule, a perception reinforced by a reference to the manner in which that 26% holding is to be calculated (the calculation must be in line with the rules that apply to Indian insurers). In addition to appearing in bold font, the text was in a larger font size.
- All corporate surveyors must agree to submit a declaration to the IRDA of material changes (including the resignation, death or suspension of a director/partner, or a change in shareholding) within 15 days "for grant of modified license". Furthermore, "the license issued by the Authority (in original) shall be surrendered at the time of application for grant of modified license".

It is always difficult to say what prompts the issuance of this type of circular, but the fact that the IRDA has done so suggests that it has come by information that has displeased it, and that it is prepared to act to remedy the situation.

*For further information on this topic please contact **Neeraj Tuli** at Tuli & Co by telephone (+91 11 4593 4000), fax (+91 11 4593 4001) or email (n.tuli@tuli.biz). The Tuli & Co website can be accessed at www.tuli.biz.*

Author

Neeraj Tuli



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