Insurance - India

Special economic zones: new avenue for insurers and reinsurers

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Author

Neeraj Tuli

Introduction

Special economic zones were established in India to promote trade and investment by enabling industries to produce and trade goods at globally competitive prices. In order to encourage businesses to set up in special economic zones, liberal policies have been introduced and some exemptions have been provided in relation to taxation, trading and customs and excise norms.

The Special Economic Zones Act 2005 was enacted in order to provide a mechanism for the establishment and operation of these zones. The decade following the enactment of the act witnessed the establishment of special economic zones across India and an increase in the nation's economic growth.

New rules for insurers

In order to extend some of the benefits of special economic zones to the insurance industry, the Ministry of Finance issued the Insurance Regulatory Development Authority of India (IRDAI) (Regulation of Insurance Business in Special Economic Zones) Rules 2015 on March 27 2015. In addition, the Ministry of Finance issued a notification on the same date pursuant to which Indian insurers carrying out insurance business in special economic zones are exempt from certain specified provisions in the Insurance Act 1938 (as amended).

The rules regulate insurers in special economic zones and, among other things, permit insurers that are registered with the IRDAI to work in special economic zones, subject to the specified conditions. Similarly, insurers from outside India can establish a branch office in a special economic zone in order to offer reinsurance within the special economic zone, subject to the specified conditions.

Establishing IFSC insurance offices

Following the implementation of the rules, the IRDAI issued the International Financial Service Centre (IFSC) Guidelines 2015 on April 6 2015. The IFSC Guidelines provide a broad framework for establishing a reinsurance business or direct insurance business in a special economic zone. The IFSC Guidelines specify that:

- Indian insurers can set up an IFSC insurance office; and
- insurers registered with a foreign regulatory authority can set up an IFSC insurance office in an special economic zone if they fulfil the specified requirements, including:
  - being licensed or registered to undertake insurance or reinsurance business in the country of incorporation;
  - being in continuous operation for the preceding five years;
  - having the specified net-owned funds; and
  - having a satisfactory track record (as determined by the IRDAI).

The IRDAI will consider various factors when determining whether to grant a certificate of registration, including the applicant's:

- performance;
- directors and managerial personnel;
- capital structure; and
- planned infrastructure.

Once granted a certificate of registration, the IFSC insurance office can:

- accept reinsurance business from all classes of business within the special economic zone and from outside the country; and
- accept reinsurance business from insurers operating in the 'domestic tariff area' (as defined in the Special Economic Zones Act), in accordance with the IRDAI regulations on reinsurance.

IFSC insurance offices can retrocede up to 90% of their reinsurance business. Further, they must maintain an assigned capital of Rs100 million.

All IFSC insurance offices must commence business within six months of grant of a certificate of registration. The IRDAI can exempt insurers from this requirement in certain circumstances.

Once registered, an IFSC insurance office carrying out business in a special economic zone must comply with 'know your customer' and anti-money laundering guidelines and the Foreign Exchange Management Act 1999. In addition, it must pay an annual fee of Rs100,000.

Comment

Following the amendments to the Insurance Act 1938 (made under the Insurance Laws (Amendment) Act 2015), the Indian insurance industry has witnessed significant reforms, most of which are targeted at promoting insurance business in India and attracting foreign investment in the sector. The IFSC Guidelines and the rules are also a step in this direction, as they aim to provide certain regulatory exemptions to insurers seeking to establish a presence in the special economic zones.

That said, the establishment of insurance business in special economic zones is still a novel concept in India and has yet to be properly tested. The way in which the IFSC Guidelines and rules will be implemented, and the enthusiasm with which domestic and global insurance industry players will receive this new means of carrying out insurance business, remain to be seen.

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