

## **Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002**

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**SCHEDULE 1 :-** .

**SCHEDULE 2 :-**INSURANCEREGULATORY AND DEVELOPMENT AUTHORITY

**SCHEDULE 3 :-**INSURANCEREGULATORY AND DEVELOPMENT AUTHORITY

**Insurance Regulatory and Development Authority  
(Insurance Brokers) Regulations, 2002**

In exercise of the powers conferred by Sec. 114-A of the Insurance Act, 1938 (4 of 1938) read with Secs. 14 and 26 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) the Authority in consultation with the Insurance Advisory Committee, hereby makes the following regulations, namely :

**1. Short title and commencement :-**

- (1) These regulations may be called the Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002.
- (2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions :-**

- (1) Unless the context otherwise requires,
  - (a) "Act" means the Insurance Act, 1938 (4 of 1938);
  - (b) "Advisory Committee" means the Advisory Committee constituted under Sec. 25 of the Insurance Regulatory and development Authority Act (41 of 1999);
  - (c) "Authority" means the Insurance Regulatory and Development Authority established under sub-sec. (1) of Sec. 3 of Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);
  - (d) "composite broker" means an insurance broker who for the time-being licensed by the Authority to act as such, for a remuneration, arranges insurance for his clients with insurance companies and/or reinsurance for his client/s;

(e) "direct broker" means an insurance broker who for the time-being licensed by the Authority to act as such, for a remuneration carries' out the functions as specified under Regulation 3 either in the field of life insurance or general insurance or both on behalf of his clients;

(f) "enquiry officer" means an officer of the Authority, or any other person having experience in insurance business, who is appointed by the Authority under Regulation 37, to hold an enquiry against an insurance broker;

(g) "form" means the forms specified under these regulations;

(h) "inspecting authority" means one or more of its officers appointed by the Authority to discharge the functions stated in Regulation 29;

(i) "insurance broker" means a person for the time- being licensed by the Authority under Regulation 11, who for a remuneration arranges insurance contracts with insurance companies and/or reinsurance companies on behalf of his clients.

Explanation. The term "insurance broker" wherever it appears in these regulations shall be deemed to mean a direct broker, a reinsurance broker or a composite broker, as the case may be, unless expressly stated to the contrary;

(j) "person" means

(i) an individual; or

(ii) a firm; or

(iii) a company formed under the Companies Act, 1956 (1 of 1956); or

(iv) a co-operative society registered under the Co-operative Societies Act, 1912 or under any law for the registration of co-operative societies; or

(v) any other person recognized by the Authority to act as an insurance broker;

(k) "principal officer" means

(i) proprietor, in the case of a proprietary concern; or

(ii) a partner, in the case of a partnership firm; or

(iii) a director, who is responsible for the activities of the insurance broking in the case of a body corporate;

(iv) or the chief executive officer appointed exclusively to carry out the functions of an insurance broker;

(l) "regulations" means Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002;

(m) "reinsurance broker" means an insurance broker who, for a remuneration, arranges reinsurance for direct insurers with insurance and reinsurance companies.

(2) Words and expressions used and not defined in these regulations but defined in the Insurance Act, 1938 (4 of 1938), or the Life Insurance Corporation Act, 1956 (31 of 1956) or the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), or Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) shall have the meanings respectively assigned to them in those Acts or the rules and regulations made thereunder, as the case may be.

### **3. Functions of a direct broker :-**

The functions of a direct broker shall include any one or more of the following:

(a) obtaining detailed information of the client's business and risk management philosophy;

(b) familiarising himself with the client's business and underwriting information so that this can be explained to an insurer and others;

(c) rendering advice on appropriate insurance cover and terms;

(d) maintaining detailed knowledge of available insurance markets, as may be applicable;

(e) submitting quotation received from insurer/s for consideration of a client;

(f) providing requisite underwriting information as required by an insurer in assessing the risk to decide pricing terms and conditions for cover;

(g) acting promptly on instructions from a client and providing him written acknowledgments and progress reports;

(h) assisting clients in paying premium under Sec. 64-VB of

Insurance Act, 1938 (4 of 1938);

(i) providing services related to insurance consultancy and risk management;

(j) assisting in the negotiation of the claims; and

(k) maintaining proper records of claims;

**4. Functions of a re-insurance broker :-**

The functions of a re-insurance broker shall include any one or more of the following:

(a) familiarising himself with the client's business and risk retention philosophy;

(b) maintaining clear records of the insurer's business to assist the reinsurer(s) or others;

(c) rendering advice based on technical data on the reinsurance covers available in the international insurance and the reinsurance markets;

(d) maintaining a database of available reinsurance markets, including solvency ratings of individual reinsurer;

(e) rendering consultancy and risk management services for reinsurance;

(f) selecting and recommending a reinsurer or a group of reinsurer;

(g) negotiating with a reinsurer on the clients behalf;

(h) assisting in case of communication of reinsurance contracts placed with them;

(i) acting promptly on instructions from a client and providing it written acknowledgments and progress reports;

(j) collecting and remitting premiums and claims within such time as agreed upon;

(k) assisting in the negotiation and settlement of claims;

(l) maintaining proper records of claims; and

(m) exercising due care and diligence at the time of selection of reinsurer and international insurance brokers having regard to their respective security rating and establishing respective responsibilities at the time of engaging their services.

**5. Functions of composite broker :-**

A composite broker shall carry out any one or more of the functions mentioned in Regulations 3 and 4.

**6. Applications for grant of licence :-**

(1) An application by a person for grant of a licence as an insurance broker shall be made in Form A to the Authority.

(2) The application under sub-regulation (1) shall be made for any one or more of the following categories, namely :

(a) direct broker;

(b) reinsurance broker;

(c) composite broker; alongwith the requisite fees as specified in Regulation 18.

**7. Application to conform to the requirements :-**

An application, not complete in all respects and not conforming to the instructions specified in the Form A and these regulations, shall be rejected.

Provided that, before rejecting any such application, the applicant shall be given a reasonable opportunity to complete the application in all respects and rectify the errors, if any.

**8. Furnishing of information, clarification and personal representation :-**

(1) The Authority may require an applicant to furnish any further information or clarification for the purpose of disposal of the application, and, thereafter, in regard to any other matter as may be deemed necessary by the Authority.

(2) The applicant or its principal officer shall, if so required, appear before the Authority for a personal representation in connection with an application.

**9. Consideration of application :-**

(1) The Authority while considering an application for grant of a licence shall take into account, all matters relevant to the carrying out of the functions by the insurance broker.

(2) Without prejudice to the above, the Authority in particular, shall take into account the following, namely:

(A) whether the applicant is not suffering from any of the disqualifications specified under sub-sec. (5) of Sec. 42-D of the Act;

(B) whether the applicant has the necessary infrastructure, such as, adequate office space, equipment and trained manpower to effectively discharge his activities;

(C) whether the applicant has in his employment a minimum of two persons who have the necessary qualifications specified in clause (F) below and experience to conduct the business of insurance broker;

(D) whether any person, directly or indirectly connected with the applicant, has been refused in the past the grant of a licence by the Authority.

Explanation. For the purposes of this sub-clause, the expression "directly or indirectly connected" means a relative in the case of an individual, and in the case of a firm or a company or a body corporate, an associate, a subsidiary, an interconnected undertaking or a group company of the applicant. It is hereby clarified that these terms shall have the same meanings as ascribed to them in the Companies Act, 1956 (1 of 1956) or MRTTP Act, 1969 (54 of 1969), as the case may be.

(E) whether the applicant fulfils the capital requirements as specified in Regulation 22;

(F) whether the principal officer of the applicant

(i) possesses the minimum qualification of:

(a) Bachelors/Masters degree in Arts, Science, or Social Sciences or Commerce or its equivalent from any institution/University recognized by any State Government or the Central Government; or

(b) Bachelor's degree in engineering or its equivalent from any institution/University recognized by any State government or the Central Government; or

(c) Bachelor's degree in law or its equivalent from any institution/University recognized by any State Government or the Central Government; or

- (d) Masters in Business Administration or its equivalent from any institution/University recognized by any State Government or the Central Government; or
  - (e) Associate/fellow of the Insurance Institute of India, Mumbai; or
  - (f) Associate/Fellow of the Institute of Risk Management, Mumbai; or
  - (g) any post graduate qualification of the Institute of Insurance and Risk Management, Hyderabad; or
  - (h) Associate/Fellow of the Institute of Chartered Accountants of India, New Delhi; or
  - (i) Associate/Fellow of the Institute of Cost and Works Accountants of India, Kolkata; or
  - (j) Associate/Fellow of the Institute of Company Secretaries of India, New Delhi; or
  - (k) Associate/Fellow of the Actuarial Society of India; or
  - (l) Certified Associateship of the Indian Institute of Bankers, Mumbai; or
  - (m) any other qualification specified from time to time by the Authority under these regulations; and
- (ii) the principal officer of the applicant has received at least one hundred hours of theoretical and practical training from an institution recognized by the Authority from time to time. Provided that where the principal officer of, the applicant:
- (a) has been carrying on reinsurance related activity or insurance consultancy for a continuous period of seven years, preceding the year in which such an application is made; or
  - (b) has for a period of, not less than seven years prior to the application made to the Authority has been a principal underwriter or has held the position of a Manager in any one of the nationalised insurance companies in India; or
  - (c) is an Associate/Fellow of the Insurance Institute of India, Mumbai; or Associate/Fellow of the Institute of Risk Management, Mumbai; or Associate/Fellow of the Actuarial Society of India; or any post graduate qualification of the Institute of Insurance and Risk Management, Hyderabad; the theoretical and practical training

from an institution recognised by the Authority from time to time according to a syllabus approved by the Authority shall be fifty hours.

(iii) has passed an examination, at the end of the period of the training mentioned in the proviso above, conducted by the National Insurance Academy, Pune or any other examining body recognised by the Authority.

(G) Whether the principal officer has not violated the code of conduct as specified in Schedule III to these regulations;

(H) that the applicant is not engaged in any other business other than the main objects of the applicant; and

(I) the Authority is of the opinion that the grant of licence will be in the interest of policyholders.

Exception. In the case of applications made to the Authority immediately following the notification of these regulations, the requirements under sub-regulation (2)(C) shall stand modified to the extent that instead of two qualified persona mentioned in the requirement be scaled down to one person, who should have qualified himself at the latest by the time of the grant of a licence under these regulations. This exception may be available only to applications made to the authority upto 31st March, 2003.

(3) Any employee responsible for soliciting and procuring insurance business on behalf on ah insurance broker shall also have to fulfill the requirements mentioned in sub-regulations (1) and (2) above and a list of such employees need to be provided to the Authority and acknowledged by it.

#### **10. Requirements of Capital :-**

(1) Any applicant seeking to become an insurance broker under these regulations should satisfy the following conditions:

(i) it shall have a minimum amount of capital as mentioned below :  
Category Minimum amount (Rupees) (a) Direct broker fifty lakhs  
(b) Reinsurance broker two hundred lakhs (c) Composite broker two hundred and fifty lakhs

(ii) the capital in the case of a company limited by shares and a co-operative society shall be in the form of equity shares;

(iii) the capital in the case of other applicants shall be brought in

cash;

(iv) the applicant shall exclusively carry on the business of an insurance broker as licensed under these regulations.

(2) No part of the capital of an applicant shall be held by a non-Indian interest beyond 26% at any time. For the purposes of these regulations, the calculations of non-Indian interest shall be made in the same manner as specified in Insurance Regulatory and Development Authority (Registration of Indian Insurance Companies) Regulations, 2000 for an insurer.

**11. Procedure For licensing :-**

The Authority on being satisfied that the applicant fulfills all the conditions specified for the grant of licence, shall grant a licence in Form B and send an intimation thereof to the applicant mentioning the category for which the Authority has granted the licence. The licence shall be issued subject to the insurance broker adhering to the conditions and the code of conduct as specified by the Authority from time to time.

**12. Validity of licence :-**

A licence once issued shall be valid for a period of three years from the date of its issue, unless the same is suspended or cancelled pursuant to these regulations.

**13. Renewal of licence :-**

(1) An insurance broker may, within thirty days before the expiry of the licence, make an application in Form A to the Authority for renewal of licence.

Provided however that if the application reaches the Authority later than that period but before the actual expiry of the current licence, an additional fee of rupees one hundred only shall be payable by the applicant to the Authority. Provided further that the Authority may for sufficient reasons offered in writing by the applicant for a delay not covered by the previous proviso, accept an application for renewal after the date of the expiry of the licence on a payment of an additional fee of seven hundred and fifty rupees only by the applicant.

(2) An insurance broker before seeking a renewal of licence, shall have completed, atleast twenty five hours of theoretical and practical training, imparted by an institution recognized by the

Authority from time to time.

(3) The application for a renewal, under sub-regulation (1) shall be dealt with in the same manner as is specified under Regulation 9.

(4) The Authority, on being satisfied that the applicant fulfills all the conditions specified for a renewal of the licence, shall renew the licence in Form B for a period of three years and send an intimation to that effect to the applicant.

(5) An insurance broker licensed under these regulations for a specified category may also apply for the grant of a licence by the Authority for any other category by fulfilling the requirements of these regulations. However, such application shall be made only after a lapse of one year from the grant of a licence in the first instance.

#### **14. Procedure where a licence is not granted :-**

(1) Where an application for grant of a licence under Regulation 6 or of a renewal thereof under Regulation 13, does not satisfy the conditions set out in Regulation 9, the Authority may refuse to grant the licence. Provided that no application shall be rejected unless the applicant has been given a reasonable opportunity of being heard.

(2) The refusal to grant a licence shall be communicated by the Authority within thirty days of such refusal to the applicant stating therein the grounds on which the application has been rejected.

(3) Any applicant, if aggrieved by the decision of the Authority, may apply within a period of thirty days from the date of receipt of such intimation, to the Chairman of the Authority for a reconsideration of its decision.

(4) The Chairman of the Authority shall consider such an application and communicate his decision thereon to the applicant in writing within six weeks of the receipt thereof.

#### **15. Effect of refusal to grant licence :-**

Any applicant, whose application for grant of a licence under Regulation 6 or of a renewal thereof under Regulation 13 has been refused by the Authority, shall, on and from the date of the receipt of the communication under Regulation 13(2) cease to act as an insurance broker. He, however, shall continue to be liable to provide services in respect of contracts already entered into

through him. Such a service shall continue only upto the period of expiry of those current contracts, details of which shall be disclosed to the Authority on receipt of the communication under Regulation 13.

**16. Issue of a duplicate licence :-**

In the event of a licence being lost or destroyed or mutilated, an insurance broker shall submit to the Authority an application alongwith a fee of rupees one thousand requesting for the issue of a duplicate licence and with a declaration giving full details regarding the issue of the licence and its loss or destruction or mutilation. (2) The Authority, after satisfying itself that the original licence has been lost, destroyed or mutilated, shall issue a duplicate licence in Form B with an endorsement thereon that it is a duplicate one.

**17. Action against a person acting as an insurance broker without a valid licence :-**

(1) Notwithstanding and without prejudice to initiation of any criminal proceedings against any person, who acts as an insurance broker without holding a valid licence issued under these regulations, the Authority may invoke against such a person penal action under the Act.

(2) Where the person falling under sub-regulation (1), is a company or firm or body corporate, without prejudice to any other proceedings which may be taken by the Authority against the company or firm or body corporate, every director, manager, secretary or other officer of the company or body corporate, and every partner of the firm, who is knowingly a party to such a contravention shall also be liable to be proceeded against.

**18. Payment of fees and the consequences of failure to pay fees :-**

(1) Every applicant eligible for the grant of a licence shall pay such fees in such a manner and within such a period as specified in Schedule II.

(2) Where an insurance broker fails to pay the annual fees payable under sub-regulation (1), the Authority may suspend the licence, whereupon the insurance broker shall cease to carry on business for the period during which the suspension subsists.

## **19. Remuneration :-**

(1) No insurance broker shall be paid or contract to be paid by way of remuneration (including royalty or licence fees or administration charges or such other compensation), an amount exceeding:

(A) on direct general insurance business

(i) on tariff products : a, 10 percent of the premium on that part of the business which is compulsory under any statute or any law in force; b. 12 1/2 percent of the premium on others.

(ii) on non-tariff products: 17 1/2 percent of the premium on direct business.

(B) on direct life insurance business

(i) individual insurance

(a) 30 percent of first year's premium

(b) 5 per cent of each renewal premium

(ii) annuity

(a) immediate annuity or a deferred annuity in consideration of a single premium, or where only one premium is payable on the policy: 2 percent of premium

(b) deferred annuity in consideration of more than one premium:

(i) 7 1/2 percent of first year's premium

(ii) 2 percent of each renewal premium

(iii) group insurance and pension schemes:

(a) one year renewable group term insurance, gratuity, superannuation, group savings linked insurance 7 1/2 percent of risk premium Note. Under group insurance schemes there will be no remuneration for the savings component.

(b) single premium - 2 percent of risk premium

(c) annual contributions, at new business procurement stage - 5 percent of non risk premium with a ceiling of Rupees three lakhs per scheme.

(d) single premium new business procurement stage - 0.5 percent with a ceiling of Rupees five lakhs per scheme

(e) remuneration for subsequent servicing - (i) one year renewable group term assurance - 2 percent of risk premium with a ceiling of rupees 50,000/- per scheme

(C) on reinsurance business

(i) as per market practices prevalent from time to time

Explanation. For purposes of the procurement of business, an insurer shall not pay an agency commission, allow a special discount, and pay a remuneration to brokers for the same insurance contract.

(2) The settlement of accounts by insurers in respect of remuneration of brokers shall be done on a monthly basis and it must be ensured that there is no cross settlement of outstanding balances.

## **20. Ceiling on business from single client :-**

(1) The business of the insurance broker shall be carried in such a manner that, not more than 50 percent of the premium (quantum, receipts, etc. as the case may be) in the first year of business, 40 percent of the premium in the second year of business and 30 percent of the premium from the third year of business onwards shall emanate from any one client.

Note. For the purposes of this regulation, the term "client" shall include, in the case of a firm or a company, an associate or a subsidiary or a group concern under the same management.

(2) The decision of the Authority as to whether a company, a business or an organization is under the same management shall be final.

## **21. Code of conduct :-**

Every insurance broker shall abide by the Code of Conduct as specified in Schedule III.

## **22. Deposit requirements :-**

(1) Every insurance broker shall before the commencement of his business, deposit and keep deposited with any scheduled bank a sum equivalent to 20% of the initial capital in fixed deposit, which shall not be released to him unless the prior permission of the Authority is obtained.

Provided that the Authority may impose a separate limit of deposit, in any case not exceeding Rupees one hundred lakhs, for a person covered by Regulation 2(l)(j)(v).

(2) every insurance broker shall furnish to the Authority as and when called upon to do so a statement certified by the Bank in which such fixed deposit is kept.

**23. (1) The provisions of Sec. 64-VB of the Act shall continue to determine the question of assumption of risk by an insurer. :-**

(2) In the case of reinsurance contracts, it may be agreed between the parties specifically or as part of international market practices that the licensed reinsurance broker or composite broker can collect the premium and remit to the reinsurer and/or collect the claims due from the reinsurer to be passed on to the insured. In these circumstances the money collected by the licensed insurance broker shall be dealt with in the following manner :

(a) he shall act as the trustee of the insurance money that he is required to handle in order to discharge his function as a reinsurance broker and for the purposes of this regulation it shall be deemed that a payment made to the reinsurance broker shall be considered as payment made to the reinsurer;

(b) ensure that 'insurance money' is held in an 'Insurance Bank Account' with one or more of the Scheduled Banks or with such other institutions as may be approved by the Authority;

(c) give written notice to, and receive written confirmation from, a bank, or other institution that he is not entitled to combine the account with any other account, or to exercise any right of set-off, charge or lien against money in that account;

(d) ensure that all monies received from or on behalf of an insured is paid into the 'Insurance Bank Account' which remains in the Insurance Bank Account' to remain in deposit until it is transferred on to the reinsurer or to the direct insurer.

(e) ensure that any refund of premium which may become due to a direct insurer on account of the cancellation of a policy or alteration in its terms and conditions or otherwise shall be paid by the reinsurer directly to the direct insurer.

(f) interest on recovery/payment received shall be for the benefit of

the direct insurer of reinsurer;

(g) only remove from the 'Insurance Bank Account' charges, fees or commission earned and interest received from any funds comprising the account;

(h) take immediate steps to restore the required position if at any time he becomes aware of any deficiency in the required "segregated amount".

#### **24. Professional indemnity insurance :-**

(1) Every insurance broker shall take out and maintain and continue to maintain a professional indemnity insurance cover throughout the validity of the period of the licence granted to him by the Authority. Provided that the Authority shall in suitable cases allow as newly licensed insurance broker to produce such a guarantee within fifteen months from the date of issue of original licence.

(2) The insurance cover must indemnify an insurance broker against

(a) any error or omission or negligence on his part or on the part of his employees and directors;

(b) any loss of money or other property for which the broker is legally liable in consequence of any financial or fraudulent act or omission;

(c) any loss of documents and costs and expenses incurred in replacing or restoring such documents;

(d) dishonest or fraudulent acts or omissions by brokers' employees or former employees.

(3) The indemnity cover

(a) shall be on a yearly basis for the entire period of licence;

(b) shall not contain any terms to the effect that payments of claims depend upon the insurance broker having first met the liability;

(c) shall indemnify in respect of all claims made during the period of the insurance regardless of the time at which the event giving rise to the claim may have occurred.

Provided that an indemnity insurance cover not fully conforming to the above requirements shall be permitted by the Authority in special cases for reasons to be recorded by it in writing.

(4) Limit of indemnity for any one claim and in the aggregate for the year in the case of insurance brokers shall be as follows :

	Category of insurance broker	Limit of indemnity
(a)	Direct broker	three times remuneration received at the end of every financial year subject to a minimum limit of rupees fifty lakhs.
(b)	Reinsurance broker	three times remuneration received at the end of every financial year subject to a minimum limit of rupees two crores and fifty lakhs.
(c)	Composite broker	three times remuneration received at the end of every financial year subject to a minimum limit of rupees five crores.

\Category of insurance broker \Limit of indemnity

(a) \Direct broker \three times remuneration received at the end of every financial year subject to a minimum limit of rupees fifty lakhs.

(b) \Reinsurance broker \three times remuneration received at the end of every financial year subject to a minimum limit of rupees two crores and fifty lakhs.

(c) \Composite broker \three times remuneration received at the end of every financial year subject to a minimum limit of rupees five crores.

(5) The un-insured excess in respect of each claim shall not exceed five percent of the capital employed by the insurance broker in the business.

(6) The insurance policy shall be obtained from any registered insurer in India who has agreed to

(a) provide the insurance broker with an annual certificate containing the name and address, including the licence number of

the insurance broker, the policy number, the limit of indemnity, the excess and the name of the insurer as evidence that the cover meets the requirements of the Authority;

(b) send a duplicate certificate to the Authority at the time the certificate is issued to the insurance broker; and

(c) inform the insurer immediately of any case of avoidance, non-renewal or cancellation of cover mid-term.

(7) Every insurance broker shall

(a) inform immediately the Authority should any cover be cancelled or voided or if any policy is not renewed;

(b) inform immediately the insurer in writing of any claim made by or against it;

(c) advise immediately the insurer of all circumstances or occurrences that may give rise to a claim under the policy; and

(d) advise the Authority as soon as an insurer has notified that it intends to decline indemnity in respect of a claim under the policy.

## **25. Maintenance of books of account, records etc. :-**

(1) Every insurance broker shall prepare for every accounting year

(i) a balance sheet or a statement of affairs as at the end of each accounting period;

(ii) a profit and loss account for that period;

(iii) a statement of cash/fund flow;

(iv) additional statements on insurance broking business as may be required by the Authority.

Note. For purposes of this regulation, the accounting year shall be a period of 12 months (or less where a business is started after 1st April) commencing on the first day of the April of an year and ending on the 31st day of March of the year following, and the accounts shall be maintained on accrual basis.

(2) Every insurance broker shall submit to the Authority, a copy of the audited financial statements as stated in sub-regulation (1) alongwith the auditor's report thereon within ninety days from the close of the accounting year along with the remarks or observations of the auditors, if any, on the conduct of the business, state of

accounts, etc. and a suitable explanation on such observations shall be appended to such accounts filed with the Authority.

(3) Every insurance broker shall, within ninety days from the date of the Auditor's report take steps to rectify any deficiencies, made out in the auditor's report and inform the Authority accordingly.

(4) All the books of account, statements, document, etc., shall be maintained at the head office of the insurance broker or such other branch office as may be designated by him and notified to the Authority, and shall be available on all working days to such officers of the Authority, authorised in this behalf by it for an inspection.

(5) All the books and documents, statements, contract notes, etc., referred to in this regulation and maintained by the insurance broker shall be retained for a period of atleast ten years from the end of the year to which they relate.

#### **26. Submission of half-yearly results :-**

(1) Every insurance broker shall before 31st October and 30th April each year furnish to the Authority a half-yearly un-audited financial statement containing details of performance, financial position, etc., alongwith a declaration confirming the fulfilment of requirements of capital in accordance with the provisions of Regulation 10 and deposit requirements in accordance with the provisions of Regulation 22.

(2) Failure to comply with the regulation of sub-regulation (1) will lead to an action, in accordance with the provisions of Regulation 34 being taken against the insurance broker.

#### **27. Internal control and systems :-**

Every insurance broker shall ensure that a proper system of internal audit is practiced in business and that his internal controls and systems are adequate for the size, nature and complexity of his business.

#### **28. Disclosures to the Authority :-**

(1) An insurance broker shall disclose to the Authority, as and when required by it, in any event not later than thirty days of a requisition, the following information, namely :

(i) his responsibilities with regard to the placement of an insurance contract;

(ii) any change in the information or particulars previously furnished, which have a bearing on the licence granted to it;

(iii) the names of the clients whose insurance portfolio he manages or has managed;

(iv) any other requirement specified by the Authority from time to time.

Provided that in case of a person specified in Regulation 2(l)(j)(v) the Authority may call for and obtain such information as it deems fit.

### **29. Authority's right to inspect :-**

(1) The Authority may appoint one or more of its officers as an "inspecting authority" to undertake inspection of the premises of the insurance broker to ascertain and see how the business is carried on, and also to inspect the books of accounts, records and documents of the insurance broker for any of the purposes specified in sub-regulation (2).

(2) The purposes referred to in sub-regulation (1) may be as follows, namely :

(i) to ensure that the books of account are being maintained in the manner required

(ii) to ensure that the provisions of the Act, rules, regulations are being complied with;

(iii) to investigate the complaints received from any insured, any insurer, other insurance brokers or any other person on any matter having a bearing on the activities of the insurance broker; and

(iv) to investigate the affairs of the insurance broker suo motu in the interest of proper development of insurance business or in policy holders' interest.

### **30. Notice before inspection :-**

(1) Before undertaking an inspection under Regulation 29, the Authority shall give a notice of ten days to an insurance broker for that purpose.

(2) Notwithstanding anything contained in sub-regulation (1), where the Authority is satisfied that in the interests of the policy holders no such notice shall be given, it may, for reasons recorded

in writing, direct that the inspection of the affairs of the insurance broker be taken up without such notice.

(3) The insurance broker shall allow the inspecting authority to have full access to the premises occupied by such insurance broker or by any other person on his behalf and also extend all facilities for examining books, documents and computer data in the possession of the insurance broker.

(4) The inspecting authority, in the course of inspection, shall be entitled to examine or record statements of any principal officer or employee of the insurance broker and have the powers to seize or make copies of documents/records.

(5) It shall be the duty of every such person to give to the inspecting authority all assistance in connection with the inspection which the insurance broker may reasonably be expected to give.

(6) Failure to comply with the requirements of the Authority in this regard or failure to cooperate with the inspecting officers shall result in suspension of licence.

**31. Submission of report to the Authority :-**

The inspecting authority shall submit an inspection report to the Authority within 90 days of the completion of the inspection.

**32. Communication of findings, etc. :-**

(1) The Authority shall, after consideration of the inspection report, communicate its findings to the insurance broker and give him a reasonable opportunity of being heard before any action is taken by the Authority on the findings of the inspecting authority.

(2) On receipt of the explanation, if any, from the insurance broker, the Authority may direct the insurance broker to take such measures as the Authority may deem fit.

**33. Appointment of investigator :-**

(1) The Authority may appoint a chartered accountant or an actuary or any qualified and experienced individual in the field of insurance to investigate the books of accounts or the affairs of the insurance broker. Provided that the person so appointed shall have the same powers of the inspecting authority as are mentioned in Regulation 29 and the obligations of the insurance broker in Regulation 29 shall be applicable to the investigation under this

regulation.

Explanation: For the purposes of this regulation the expression "chartered accountant" shall have the same meaning as given in Sec. 226 of the Companies Act, 1956 (1 of 1956), and the expression 'actuary' shall mean a members of the Actuarial Society of India.

(2) The expenses and costs of such an investigation shall be recovered by the Authority from the insurance broker whose affairs had been caused to be investigated.

#### **34. Cancellation or suspension of licence with notice :-**

(1) The licence of an insurance broker may be cancelled or suspended after due notice and after giving him a reasonable opportunity of being heard if he

(a) violates the provisions of the Insurance Act, 1938 (4 of 1938), Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) or rules or regulations, made thereunder;

(b) fails to furnish any information relating to his activities as an insurance broker as required by the Authority;

(c) furnishes wrong or false information; or conceals or fails to disclose material facts in the application submitted for obtaining a licence;

(d) does not submit periodical returns as required by the Authority;

(e) does not co-operate with any inspection or enquiry conducted by the Authority;

(f) fails to resolve the complaints of the policy holders or fails to give a satisfactory reply to the Authority in this behalf;

(g) indulges in rebates or inducements in cash or kind to a client or any of the client's directors or other employees or any person acting as an introducer;

(h) is found guilty of misconduct or his conduct is not in accordance with the Code of Conduct specified in Schedule III;

(i) fails to maintain the capital requirements in accordance with the provisions of Regulation 10;

(j) fails to pay the fees or the reimbursement of expenses under

these regulations;

(k) violates the conditions of licence;

(l) does not carry out his obligations as specified in the regulations;

(m) if the principal officer does not acquire practical training and pass the examination within the stipulated period as specified in Regulation 9.

(2) In the circumstances where the Authority feels that the establishment of an insurance broker is only to divert funds within a group of companies or their associates, it can after due enquiries made by it cancel the licence granted to the insurance broker.

**35. Cancellation or suspension of licence without notice :-**

The licence of an insurance broker may be cancelled or suspended without notice, if he

(a) violates any one or more of the requirements under the Code of Conduct specified in Schedule III;

(b) is found guilty of fraud, or is convicted of a criminal offence;

(c) commits such defaults, which require immediate action in the opinion of the Authority, provided that the Authority has communicated the reasons for the cancellation in writing;

(d) the insurance broker has not commenced the business within six months of being granted a licence.

**36. Manner of making order of cancellation/suspension with notice :-**

The licence of an insurance broker shall not be cancelled unless an enquiry has been held in accordance with the procedure specified in Regulation 37.

**37. Manner of holding enquiry before suspension or cancellation :-**

(1) For the purpose of holding an enquiry under Regulation 36, the Authority may appoint an enquiry officer;

(2) the enquiry officer shall issue to the insurance broker a notice at the registered office or the principal place of business of the insurance broker, as the case may be, calling for such information as he considers necessary for the conduct of an enquiry;

(3) the insurance broker may, within fifteen days from the date of receipt of such a notice, furnish to the enquiry officer a reply together with copies of documentary or other evidence relied on by him or sought by the enquiry officer,

(4) the enquiry officer shall, give a reasonable opportunity of hearing to the insurance broker to enable him to make submissions in support of his reply made under sub-regulation (3);

(5) the insurance broker may either appear in person or through any person duly authorised by him to present its case;

(6) if it is considered necessary, the enquiry officer may require the Authority to present its case through one of its officers; and

(7) the enquiry officer shall, after taking into account all relevant facts and submissions made by the insurance broker, submit a report to the Authority within 90 days of the completion of the enquiry proceedings.

**38. cause notice and order :-**

Show-.

(1) On receipt of the report from the enquiry officer, the Authority shall consider it and issue a show-cause notice to the insurance broker if the contents of the report warrant a suspension or cancellation of the licence granted to him.

Provided that no such notice is required, in case the provisions of Regulation 35 are attracted.

(2) The insurance broker shall within twenty-one days of the date of receipt of the show cause notice send a reply to the Authority.

(3) The Authority after considering the reply to the show cause notice shall, as soon as possible, but not later than thirty days from the receipt of the reply, pass such an order as it deems fit.

Provided, however, where the insurance broker on serving of the notice under this regulation fails to furnish any reply within the stated period, the Authority may after the expiry of such time proceed to decide the case ex parte.

(4) The Authority shall send a copy of the order made under clause (3) to the insurance broker.

**39. Publication of order of suspension or cancellation :-**

The order of cancellation or suspension of the licence made under sub-regulation (3) of Regulation 38, shall be published in one of the daily newspapers in the English language and one newspaper in the regional language as the Authority may consider fit.

**40. Effect of cancellation or suspension of licence :-**

(1) On and from the date of suspension or cancellation of the licence, the insurance broker, shall cease to act as an insurance broker.

(2) An insurance broker however shall continue to service the contracts already concluded through him for a period of six months within which suitable arrangements shall be made by him for having the contracts attended to by another licensed insurance broker.

(3) The Authority in such an event may pass such an order as it thinks fit for the disposal of the deposit of the insurance broker made under Regulation 22.

**41. General :-**

(1) From the date of commencement of these regulations no person can function as a broker or an insurance intermediary unless a licence has been granted to him by the Authority under these regulations.

(2) Any disputes arising between an insurance broker and an insurer or any other person either in the course of his engagement as an insurance broker or otherwise may be referred to the Authority by the person so affected; and on receipt of the complaint or representation, the Authority may examine the complaint and if found necessary proceed to conduct an enquiry or an inspection or an investigation in terms of these regulations.

SCHEDULE 1

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SCHEDULE 2

INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY

(Insurance Brokers) Regulations, 2002 [See Regulation 18] FEES

**SCHEDULE II**

**INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY**

(Insurance Brokers) Regulations, 2002

[See Regulation 18]

## **FEES**

### **Registration Fees:**

1. (a) Every insurance broker at the time of being licensed shall pay licence fees as set out below:

Category of Insurance broker	Amount of licence fee payable
Direct broker	Rs. 25,000
Reinsurance	Rs. 75,000
Composite broker	Rs. 1,25,000

### SCHEDULE 3

INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY

(Insurance Brokers) Regulations, 2002 CODE OF CONDUCT [See Regulation 21]

### **SCHEDULE III**

## **INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY**

### **(Insurance Brokers) Regulations, 2002**

#### **CODE OF CONDUCT**

[See Regulation 21]

1, Every insurance broker shall follow recognised standards of professional conduct and discharge his functions in the interest of the policyholders.

2. Conduct in matters relating to clients relationship. Every insurance broker

shall :

(a) conduct its dealings with clients with utmost good faith and integrity at all times;

(b) act with care and diligence;

(c) ensure that the client understands his relationship with the broker and on whose behalf the broker is acting;

(d) treat all information supplied by the prospective clients as completely confidential to themselves and to the insurers) to which the business is being offered;

(e) take appropriate steps to maintain the security of confidential documents in their possession;

(f) hold specific authority of client to develop terms;

(g) understand the type of client it is dealing with and the extent ,of the client's awareness of risk and insurance;

(h) obtain written mandate from client to represent the client to the insurer and

communicate the grant of a cover to the client after effecting insurance;

(i) obtain written mandate from client to represent the client to the insurer/reinsurers; and confirm cover to the insurer after effecting re-insurance, and submit relevant reinsurance acceptance and placement slips; (j) avoid conflict of interest 3. Conduct in matters relating to Sales practices. Every insurance broker shall:

(a) confirm that it is a member of the Insurance Brokers Association of India or such a body of brokers as approved by the Authority which has a memorandum of

understanding with the Authority;

(b) confirm that he does not employ agents or canvassers to bring in business;

(c) identify itself and explain as soon as possible the degree of choice in the products that are on offer,

(d) ensure that the client understands the type of service it can offer;

(e) ensure that the policy proposed is suitable to the needs of the prospective client;

(f) give advice only on those matters in which it is knowledgeable and seek or recommend other specialist for advice when necessary;

(g) not make inaccurate or unfair criticisms of any insurer or any member of the

Insurance Brokers Association of India or member of such body of brokers as approved by the Authority;

(h) explain why a policy or policies are proposed and provide comparisons in terms of price, cover or service where there is a choice of products;

(i) state the period of cover for which the quotation remains valid if the proposed cover is not effected immediately.

(j) explain when and how the premium is payable and how such premium is to be collected, where another party is financing all or part of the premium, full details shall be given to the client including any obligations that the client may owe to that party; and

(k) explain the procedures to follow in the event of a loss. 4. Conduct in relation to furnishing of information. Every insurance broker shall:

(a) ensure that the consequences of non-disclosure and inaccuracies

are pointed out to the prospective client;

(b) avoid influencing the prospective client and make it clear that all the answers or statements given are the latter's-own responsibility. Ask the client to carefully check details of information given in the documents and request the client to make true, fair and complete disclosure where it believes that the client has not done so and in case further disclosure is not forthcoming it should consider declining to act further;

(c) explain to the client the importance of disclosing all subsequent changes that might affect the insurance throughout the duration of the policy; and

(d) disclose on behalf of its client all material facts within its knowledge and give a fair presentation of the risk.

5. Conduct in relation to explanation of insurance contract. Every insurance broker shall :

(a) provide the list of insurers) participating under the insurance contract and advise any subsequent changes thereafter;

(b) explain all the essential provisions of the cover afforded by the policy recommended by him so that, as far as possible, the prospective client understands what is being purchased;

(c) quote terms exactly as provided by insurer;

(d) draw attention to any warranty imposed under the policy, major or unusual

restrictions, exclusions under the policy and explain how the contract may be cancelled;

(e) provide the client with prompt written confirmation that insurance has been effected. If the final policy wording is not included with this confirmation, the same shall be forwarded as soon as possible;

(f) notify changes to the terms and conditions of any insurance contract and drive reasonable notice before any changes take effect;

(g) advise its clients of any insurance proposed on their behalf which will be effected with an insurer outside India, where permitted, and, if appropriate, of the possible risks involved; and

6. Conduct in relation to renewal of policies. Every insurance broker shall:

(a) ensure that its client is aware of the expiry date of the insurance even if it chooses not to offer further cover to the client.

(b) ensure that renewal notices contain a warning about the duty of disclosure including the necessity to advise changes affecting the policy, which have occurred since the policy inception or the last renewal date;

(c) ensure that renewal notices contain a requirement for keeping a record (including copies of letters) of all information supplied to the insurer for the purpose of renewal of the contract;

(d) ensure that the client receives the insurer's renewal invitation well in time before the expiry date.

7. Conduct in relation to claim by client. Every insurance broker shall:

(a) explain to its clients their obligation to notify claims promptly and to disclose all material facts and advise subsequent developments as soon as possible;

(b) request the client to make true, fair and complete disclosure where it believes that the client has not done so. If further disclosure is not forthcoming it shall consider declining to act further for the client;

(c) give prompt advice as to the client of any requirements concerning the claim;

(d) forward any information received from the client regarding a claim or an incident that may give rise to a claim without delay, and in any event within three working days;

(e) advise the client without delay of the insurer's decision or otherwise of a claim; and give all reasonable assistance to the client in pursuing his claim.

Provided that the insurance broker shall not take up recovery assignment on a policy contract which has not been serviced through him or should not work as a claims consultant for a policy which has not been serviced through him.

8. Conduct in relation to receipt of complaints. - Every insurance broker shall:

(a) ensure that letters of instruction, policies and renewal documents contain details of complaints handling procedures;

(b) accept complaints either by phone or in writing;

(c) acknowledge a complaint within fourteen days from the receipt of correspondence, advise the member of staff who will be dealing with the complaint and the timetable for dealing with it;

(d) ensure that response letters are sent and inform the complainant of what he may do if he is unhappy with the response;

(e) ensure that complaints are dealt with at a suitably senior level;

(f) have in place a system for recording and monitoring complaints.

9. Conduct in relation to documentation. Every insurance broker shall:

(a) ensure that any documents issued comply with all statutory or regulatory

requirements from time to time in force;

- (b) assigned policy documentation without avoidable delay,
- (c) make available, with policy documentation, advice that the documentation shall be read carefully and retained by the client;
- (d) not withhold documentation from its clients without their consent, unless adequate and justifiable reasons are disclosed in writing and without delay to the client. Where documentation is withheld, the client must still receive full details of the insurance contract;
- (e) acknowledge receipt of all monies received in connection with an insurance policy;
- (f) ensure that their reply is sent promptly or use its best endeavours to obtain a prompt reply to all correspondence;
- (g) ensure that all written terms and conditions are fair in substance and set out, clearly and in plain language, client's rights and responsibilities; and
- (h) subject to the payment of any monies owed to it, make available to any new insurance broker instructed by the client all documentation to which the client is entitled and which is necessary for the new insurance broker to act on behalf of the client.

10. Conduct in matters relating to advertising. Every insurance broker shall conform to the relevant provisions of the Insurance Regulatory and Development Authority (Insurance Advertisements and Disclosure) Regulations, 2000, and :

- (a) ensure that statements made are not misleading or extravagant;
- (b) where appropriate, distinguish between contractual benefits which the insurance policy is bound to provide and non-contractual benefits which may be provided;
- (c) ensure that advertisements shall not be restricted to the policies of one insurer, except where the reasons for such restriction are fully explained with the prior approval of that insurer;
- (d) ensure that advertisements contain nothing which is in breach of the law nor omit anything which the law requires;
- (e) ensure that advertisement does not encourage or condone defiance or breach of the law;
- (f) ensure that advertisements contain nothing which is likely, in the light of generally prevailing standards of decency and propriety, to cause grave or widespread offence or to cause disharmony,
- (g) ensure that advertisements are not so framed as to abuse the trust of clients or exploit their lack of experience or knowledge;

(h) ensure that all descriptions, claims and comparisons, which relate to matters of objectively ascertainable fact shall be capable of substantiation.

11. Conduct in matters relating receipt of remuneration. Every insurance broker shall:

(a) disclose whether in addition to the remuneration prescribed under these regulations, he proposes to charge the client, and if so in what manner;

(b) advise the client in writing of the insurance premium and any fees or charges

separately and the purpose of any related services;

(c) if requested by a client, disclose the amount of remuneration or other remuneration it receives as a result of effecting insurance for that client. This will include any payment

received as a result of securing on behalf of the client any service additional to the arrangement of the contract of insurance; and

(d) advise its clients, prior to effecting the insurance, of their intention to make any deductions from the amount of claim collected for a client, where this is a recognised practice for the type of insurance concerned.

12. Conduct in relation to matters relating to training. Every insurance broker

shall :

(a) that its staff are aware of and adhere to the standards expected of them by this code;

(b) ensure that staff are competent, suitable and have been given adequate training;

(c) ensure that there is a system in place to monitor the quality of advice given by its staff;

(d) ensure that members of staff are aware of legal requirements including the law of agency affecting their activities; and only handle classes of business in which they are competent;

(e) draw the attention of the client to Sec. 41 of the Act, which prohibits rebating and sharing of commission.

13. Every insurance broker shall display in every office where it is carrying on business and to which the public have access a notice to the effect that a copy of the code of conduct is available upon request and that if a member of the public wishes to make a complaint or requires the assistance of the Authority in resolving a dispute, he may write to the Authority.

14. An insurance broker as defined in these regulations shall not act

as an insurance agent of any insurer under Sec. 42 of the Act. -

15. Every insurance broker shall abide by the provisions of the Insurance Act, 1938 (4 of 1938), Insurance Regulatory and Development Authority Act -1999 (41 of 1999), rules and regulations made thereunder which may be applicable and relevant to the activities carried on by them as insurance brokers.