



सत्यमेव जयते

**PARLIAMENT OF INDIA  
RAJYA SABHA**

**REPORT OF THE SELECT COMMITTEE ON  
THE INSURANCE LAWS (AMENDMENT) BILL, 2008**

**PRESENTED TO THE RAJYA SABHA ON THE 10<sup>th</sup> DECEMBER, 2014**



**RAJYA SABHA SECRETARIAT  
NEW DELHI**

**December, 2014  
Agrahayana, 1936 (Saka)**

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## **#COMPOSITION OF THE COMMITTEE**

1. Dr. Chandan Mitra, Chairman
2. \* Shri V.P. Singh Badnore
3. \* Shri Rangasayee Ramakrishna
4. Shri Anand Sharma
5. Shri B.K. Hariprasad
6. Shri Jesudasu Seelam
7. Shri Satish Chandra Misra
8. Shri K.C. Tyagi
9. Shri Derek O'Brien
10. Dr. V. Maitreyan
11. Prof. Ram Gopal Yadav
12. Shri P. Rajeeve
13. Shri Kalpataru Das
14. Shri Naresh Gujral
15. Shri Rajeev Chandrasekhar

### **SECRETARIAT**

Shri M.K. Khan	-	Joint Secretary
Shri Rakesh Naithani	-	Joint Director
Shri Rajendra Tiwari	-	Joint Director
Shri Goutam Kumar	-	Assistant Director
Shri Ranajit Chakraborty	-	Committee Officer

### **REPRESENTATIVES OF THE MINISTRIES**

#### **(i) Department of Financial Services (Ministry of Finance)**

1. Shri Hasmukh Adhia - Secretary
2. Smt. Snehlata Shrivastava - Additional Secretary
3. Shri Anup Wadhawan - Joint Secretary
4. Dr. N. Srinivasa Rao - Director

#### **(ii) Legislative Department (Ministry of Law & Justice)**

1. Dr. Sanjay Singh - Secretary
2. Dr. G. Narayana Raju - Additional Secretary
3. Shri R. Sreenivas - Deputy Legislative Counsel

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#Constituted on 14th August, 2014

\* appointed as a Member *w.e.f.* 25th November, 2014 in place of Shri Mukhtar Abbas Naqvi and Shri Jagat Prakash Nadda consequent upon their resignation *w.e.f.* 9th November, 2014.

## INTRODUCTION

I, the Chairman of the Select Committee on the Insurance Laws (Amendment) Bill, 2008 having been authorised by the Committee to submit the Report on its behalf, present this Report on the Bill.

2. The Insurance Laws (Amendment) Bill, 2008 as introduced in the Rajya Sabha, was referred to the Select Committee comprising of 15 Members of Rajya Sabha on a motion, moved in the House by the then Minister of Finance, Corporate Affairs and Defence and adopted by the House on the 14<sup>th</sup> August, 2014, for examination and submission of Report thereon to the Rajya Sabha by the last day of the first week of the Winter Session, 2014 i.e. by 28<sup>th</sup> November, 2014. However two vacancies arose in the Select Committee consequent upon the induction of Shri Jagat Prakash Nadda and Shri Mukhtar Abbas Naqvi into the Council of Ministers w.e.f. 9<sup>th</sup> November, 2014. These vacancies were filled up through a Motion moved in the Rajya Sabha by the concerned Minister on 25<sup>th</sup> November, 2014 by appointing Shri V.P. Singh Badnore and Shri Rangasayee Ramakrishna to the Select Committee. Simultaneously, a Motion moved by the Chairman of the Select Committee for extension of time upto 12<sup>th</sup> December, 2014 for the presentation of report was also adopted by the House **(Annexure I)**.

3. The Insurance Laws (Amendment) Bill, 2008 seeks to amend the Insurance Act, 1938, the General Insurance Business (Nationalisation) Act, 1972 and the Insurance Regulatory and Development Authority Act, 1999. Besides other issues, the proposed hike in the Foreign Direct Investment (FDI) limit in the insurance sector from the present level of 26% to 49% was one of the main reasons for referring it to the Committee. The proposed amendments are aimed at bringing improvement and revision of the laws relating to insurance business in the changed scenario of increasing private participation. It also incorporates certain provisions to provide IRDA with flexibility to discharge its functions effectively and efficiently.

4. The Committee held 9 sittings in all.

5. The Committee at its first meeting held on the 4<sup>th</sup> September, 2014 decided upon the course of action and the methodology to be followed to expeditiously accomplish the task of submitting the Report on the aforesaid Bill within the stipulated time. It was also decided that keeping in view the paucity of time, a series of meetings would be held. In the same meeting, the Committee had a general discussion on the Bill and decided to issue a Press Communiqué in this regard in leading National and regional print and electronic media in order to give wide publicity to the Bill and invite memoranda containing views/comments/suggestions from experts, individuals/organisations, stakeholders etc. interested in the subject matter of the Bill. Accordingly a Press Release was published in leading National and regional newspapers on the 9<sup>th</sup> September, 2014 and was also telecast on Doordarshan, Akashvani and Rajya Sabha Television (RSTV) at regular intervals.

6. In its second sitting held on the 12<sup>th</sup> September, 2014, the Committee heard the Secretaries of the Departments of Financial Services (Ministry of Finance), Industrial Policy & Promotion (Ministry of Commerce and Industry) and Legislative Department (Ministry of Law & Justice) and the representative of the Ministry of Corporate Affairs. During the interaction with the Committee, they explained the background and salient features of the Bill and the advantages of the proposed legislation to ensure growth in the insurance sector. The Committee also heard the views of the representatives of the General Insurance Council and some of the Public Sector Insurance Companies in the same meeting.

7. At its third sitting held on the 19<sup>th</sup> September, 2014, the Committee heard the representatives of the Private Sector Insurance Companies and employees' unions/associations in insurance sector. The private sector insurance companies stressed upon the importance of raising the FDI limit from 26% to 49%, for providing adequate capital in the form of equity for increasing the insurance penetration in the country. Representatives of employees associations in insurance sector touched upon the perceived demerits of allowing enhanced FDI in the insurance sector and also elaborated upon the unethical practices leading to policy lapses in case of private sector insurance companies. Considering the importance and wide scope of the Bill, the Committee strongly felt the need for hearing various organizations/stakeholders including some regulators in the financial sector, *viz.* IRDA, SEBI & RBI and accordingly decided to visit Mumbai for the purpose.

8. In its fourth sitting held on the 26<sup>th</sup> September, 2014, the Committee heard the representatives of the Confederation of Indian Industry (CII), Federation of Indian Chambers of Commerce and Industry (FICCI), Indian Institute of Insurance Surveyors & Loss Assessors (IISLA) and Life Insurance Council (LIC). They submitted their detailed suggestions on the merits and demerits of the various provisions of the Bill.

9. In response to its Press Communique, the Committee in all received more than 700 memoranda. The Committee in its fifth sitting held on the 14<sup>th</sup> October, 2014, heard some of the organizations/individuals who had submitted Memoranda on the Bill. In that meeting, the Committee heard the views of Lloyd's General Representative in India, Institute of Actuaries in India, Aon Global Insurance Brokers Pvt. Ltd., Deutsche Bank, Indian Centre for Islamic Finance, National Insurance Vimo Sewa Co-operative Ltd., All India LIC Employees Federation, Shri S.B. Mathur, former LIC Chairman and Shri Subhash Chandra Agrawal, RTI Activist.

10. The Committee visited Mumbai on 27<sup>th</sup> and 28<sup>th</sup> October, 2014 and heard various stakeholders *viz.* Securities and Exchange Board of India (SEBI), Insurance Regulatory and Development Authority (IRDA), Reserve Bank of India (RBI) and other experts namely, Shri G.N. Bajpai, Ex-Chairman, LIC of India, Shri J. Harinarayan, Former Chairman, IRDA, Shri Sunil Mehta, MD, SPM Capital Advisors Pvt. Ltd., Shri Biswajit Mohanty, Ex- MD & CEO, SBI Pension Fund, Shri K.N. Bhandari & Shri B. Chakraborty, Ex CMDs, NIACL and Shri Sudhin Roy Chowdhury, Ex-whole Time Director, IRDA on the various provisions of the Bill.

The Select Committee also heard LIC of India, GIC of India, LIC Agents' Organisation of India, Albright Stonebridge Group and Indian Merchants' Chamber who have submitted their memoranda to the Committee during its study visit.

11. After all the deliberations, the Committee decided to undertake clause-by-clause consideration on 27<sup>th</sup> November, 2014. However, it could not take up the clause-by-clause consideration due to some important legislative business listed for discussion in the House. The Committee thereafter undertook the clause-by-clause consideration of the Bill at its sittings held on the 2<sup>nd</sup> and 3<sup>rd</sup> December, 2014.

12. The Committee during the process of examination of the Bill heard a total of 117 witnesses, who gave their suggestions on the Bill (**Annexure II**).

13. The Committee considered and adopted its draft Report on the Bill, at its sitting held on the 8<sup>th</sup> December, 2014.

14. S/Shri P. Rajeeve & K.C. Tyagi and Prof. Ram Gopal Yadav, Members submitted a joint Note of Dissent and Shri Derek O'Brien, Member submitted a separate Note of Dissent, which are appended to the Report as Appendix- I & II.

15. The Committee wishes to express its gratitude to the representatives of the Department of Financial Services (Ministry of Finance) and the Legislative Department (Ministry of Law and Justice) for furnishing necessary information/documents and rendering valuable assistance to the Committee in its deliberations. The Committee also extends its thanks to all the distinguished persons who appeared before the Committee and placed their considered views on the Bill and furnished written notes and inputs which the Committee had desired in connection with the examination of the Bill.

New Delhi  
8<sup>th</sup> December, 2014  
17 Agrahayana, 1936 (Saka)

**DR. CHANDAN MITRA**  
*Chairman,*  
*Select Committee on the*  
*Insurance Laws (Amendment) Bill, 2008.*

# REPORT

## Background of the Bill

The insurance business in the country is presently regulated by the Insurance Act, 1938. With the changing economic scenario, a need arose for opening up of the insurance business to the private sector and the Insurance Regulatory and Development Authority Act, 1999 (the IRDA Act), was enacted. As a consequence of opening up of the insurance business, the number of insurance companies increased from six nationalised companies in 1999 to 53 insurance companies as on date. The IRDA Act paved the way for establishment of the Insurance Regulatory and Development Authority (IRDA) to protect the interest of holders of insurance policies and to regulate, promote and ensure orderly growth of the insurance industry and for matters connected therewith or incidental thereto. Another Act pertaining to the Insurance sector, namely the General Insurance Business (Nationalisation) Act (GIBNA), 1972, had earlier nationalised the general insurance business in India and provided for the acquisition and transfer of shares of Indian general insurance companies, in order to serve better the need of the economy, by securing the development of general insurance business in the best interest of the public.

2. The Law Commission of India, at the request of IRDA, had reviewed these Acts and submitted its 190<sup>th</sup> report relating to the revision of the Insurance Act, 1938 and the IRDA Act, 1999 to Government on 1<sup>st</sup> June, 2004. The report covered legal issues concerning repudiation of the life insurance policies, nominations, assignment and transfer of policies, merger of IRDA Act with the Insurance Act, 1938, setting up of the Grievance Redressal Authorities, Insurance Appellate Authority, amendment to definitions and deletion of redundant provisions. The Law Commission in its Report also recommended the setting up of a Committee headed by an expert to examine in detail a few selective areas, before suggesting any changes. Accordingly, an expert Committee, namely, KPN Committee under Shri K.P. Narsimhan, an ex-Chairman of the LIC was set up by the IRDA. The KPN Committee examined various issues relating to Surveyors and Loss Assessors, Investments, Tariff, Shareholders & Policyholders Funds and extent of Foreign Shareholdings in the Indian insurance companies and co-operative societies. It submitted its report to IRDA on 26<sup>th</sup> July, 2005. The reports submitted by the Law Commission and the KPN Committee were examined by IRDA and they forwarded their recommendations on amendment of insurance laws to the Government on 16<sup>th</sup> March, 2006.

3. After examination of the recommendations of the Law Commission, the KPN Committee and the IRDA, the Government framed the Insurance Laws (Amendment) Bill, 2006 incorporating amendments in the Insurance Act, 1938, the Life Insurance Corporation Act, 1956, the General Insurance Business (Nationalisation) Act, 1972 and the IRDA Act, 1999. The said Bill was considered by the Cabinet in its meeting held on the 21<sup>st</sup> December, 2006 and was referred to a Group of Ministers (GoM). The GoM decided that the amendments to the Life Insurance Corporation Act, 1956 may be carried out separately and not in combination with amendments to other insurance related Acts. Accordingly, the Insurance Laws (Amendment) Bill, 2008 with a view to

amend the remaining three Acts was introduced in the Rajya Sabha on 22<sup>nd</sup> December, 2008. This inclusive and comprehensive amendment Bill was referred to the Standing Committee on Finance for examination and report.

4. The Standing Committee on Finance went through a process of detailed examination of the Bill and held extensive and wide ranging discussions with almost all the stakeholders. Written views/memoranda were also received from the General Insurers' (Public Sector) Association of India (GIPSA), General Insurance Council, Confederation of Indian Industries (CII), US India Business Council (USIBC), Reinsurance Group of America (RGA), various private sector insurance companies, employees' association, insurance brokers' association and Indian Institute of Insurance Surveyors and Loss Assessors (IISLA), etc.

5. The Standing Committee on Finance took evidence of the representatives of the Ministry of Finance (Department of Financial Services) and various unions/associations employees, agents and field workers such as All India LIC Employees Federation, All India Insurance Employees Association, National Federation of Insurance Field Workers of India, Life Insurance Agents Federation of India and IISLA. They also heard the views of various private insurance companies viz. Bajaj Allianz Life Insurance Company Ltd., Bharti Axa General Insurance Company Ltd., ICICI Lombard General Insurance Company Ltd. and Shriram Life Insurance Company Ltd. The Committee submitted its report to Parliament on 13<sup>th</sup> December, 2011.

6. The Standing Committee on Finance (2011-12) (15<sup>th</sup> Lok Sabha) in its 41<sup>st</sup> Report made 34 recommendations on various clauses of the Bill. The then Government accepted 24 recommendations fully, two partially and rejected eight of them. A crucial recommendation that was rejected by the Government related to the Standing Committee's view that the foreign equity investment cap should be retained at 26% and not to be raised to 49% as proposed in the Bill. Accordingly, the previous Government introduced 88 official amendments, which was approved by the Union Cabinet on 4<sup>th</sup> October, 2012. These amendments were largely based on the Standing Committee's recommendations, while retaining the foreign equity cap at 49% as originally proposed in the Bill.

7. In addition to the 88 official amendments, the Government had now proposed 9 amendments of substantial nature and two of a drafting nature. Therefore a total of 99 official amendments were approved by the Union Cabinet. One of the crucial amendments related to incorporating the provision regarding safeguarding of Indian ownership and control relating to enhancing of foreign equity cap in an Indian insurance company and making the foreign equity investment cap explicitly composite.

8. The proposed amendments in the Bill are aimed at removing archaic and redundant provisions from the legislations and incorporating new provisions to provide IRDA with the flexibility to discharge its functions effectively and efficiently and enabling greater foreign investment in the insurance sector with suitable safeguards.



## **Key issues relating to the Insurance Laws (Amendment) Bill, 2008**

9. The Insurance Laws (Amendment) Bill, 2008 proposes to amend the Insurance Act, 1938, the IRDA Act, 1999 and the General Insurance Business (Nationalisation) Act, 1972. The Bill, *inter alia*, seeks to:-

- (i) define "health insurance business" and provides for a minimum paid-up equity capital of Rs. 50 crore in case of insurers carrying on exclusively the business of health insurance;
- (ii) raise the foreign equity in Indian insurance company from 26% to 49% and maintain foreign direct investment cap at 26% for the Insurance Co-operative Societies;
- (iii) permit foreign re-insurers to open branches only for re-insurance business in India;
- (iv) facilitate entry of Lloyd's of London in insurance business in India as a foreign company in joint venture with Indian partners and also as branch of foreign re-insurer;
- (v) provide for permanent registration of the insurers with annual renewal fee and right to cancel the registration on breach of conditions specified by the IRDA;
- (vi) remove restriction on divestment by Indian promoters of insurance companies, which were required earlier to divest to 26% or such other prescribed percentage in the manner and period prescribed by the Central Government;
- (vii) remove requirements of deposits by insurers for registration in view of these being regulated by the IRDA on the basis of solvency margin;
- (viii) provide obligatory underwriting of third party risks of motor vehicles on the pattern of insurance in rural areas and social sectors;
- (ix) make provision for absolute and conditional assignments of life insurance policies;
- (x) make provision for distinction between a beneficiary nominee and a collector nominee in life insurance policies;
- (xi) entrust responsibility of appointing insurance agents to insurers and IRDA to regulate their eligibility, qualifications and other aspects;
- (xii) make life insurance policy unchallengeable on whatsoever ground after five years of issue of the policy and limiting the grounds for challenge during the period within five years;
- (xiii) delete provisions relating to Tariff Advisory Committee (TAC) in view of the de-tariffing of rates and premiums *w.e.f.* 1st January, 2007;
- (xiv) provide for making Life Insurance Council and General Insurance Council as self-regulating bodies by empowering them to frame bye-laws for elections, meetings, levy and collection of fees from its members;

- (xv) provide for fine up to Rs. 25 crore and imprisonment up to 10 years for carrying on insurance business without registration;
- (xvi) provide for penalty of "not exceeding twenty-five crore rupees" in case an insurer fails to comply with the obligations for rural or social sector or third party insurance of motor vehicles;
- (xvii) provide for powers of adjudication to the Authority and appeal to Securities Appellate Tribunal against the decisions of the Authority;
- (xviii) provide for crediting sums realised by way of penalty to the Consolidated Fund of India;
- (xix) bar courts from taking cognizance of any offence punishable under the Insurance Act, save on a complaint made by an officer of the IRDA;
- (xx) delete redundant provisions and make consequential amendments to various provisions in the Insurance Act;
- (xxi) allow insurance companies to raise newer capital through newer instruments on the pattern of banks;
- (xxii) formulate regulations for payment of commission and control of management expenses;
- (xxiii) formulate regulations for opening and closing of foreign branches and the closing of domestic branches of Indian insurers and norms for opening domestic branches;
- (xxiv) address matters relating to the functions, code of conduct, etc., of surveyors and loss assessors in the existing regulations;
- (xxv) allow nationalised general insurance companies to raise money from the market with the permission of the Central Government for increasing their business in rural and social sector, to meet solvency margin and such other purposes, as the Central Government may empower in this behalf; and
- (xxvi) include "insurance agent" in the definition of "insurance intermediaries" in the IRDA Act.

### **Deliberations of the Select Committee with various stakeholders**

10. Considering the wide implications of the Bill on the Insurance business and its consequent effect on the economy of the country and keeping in view the benefits of the policy holders, the Select Committee held extensive consultations with the stakeholders ranging from representatives of the concerned Ministries/Departments, small co-operative societies, employees & brokers unions/associations to large business houses in the public & private sector as well as multinational companies. The Committee in its meetings with the aforesaid, tried to elicit their views and suggestions on the various provisions contained in the proposed Bill. An overview of the deliberations and a gist of the views expressed by them during the meetings with the Committee are given below:

## **11. Deposition in the meeting held on 12<sup>th</sup> September, 2014:**

### **11.1 Secretaries of the Departments of Financial Services (Ministry of Finance), Industrial Policy & Promotion (Ministry of Commerce and Industry) and Legislative Department (Ministry of Law & Justice) and the representative of the Ministry of Corporate Affairs**

11.1.1 The representatives of the Department of Financial Services giving the background of the Bill stated that it was referred to the Standing Committee on Finance, which submitted its report on 13<sup>th</sup> December, 2011 and largely based on its recommendations, the Government approved 99 amendments to the Bill. A key recommendation of the Standing Committee which was rejected by the Government related to the Committee's view that foreign equity cap should be retained at 26% and not be raised to 49%. The Bill has now again been referred to the Select Committee of Rajya Sabha on 14<sup>th</sup> August, 2014 for examination and report.

11.1.2 The Department of Financial Services further explained that the rationale behind increasing the FDI limit to 49% is that the Insurance Companies are regulated by stringent solvency norms and continuously require additional capital for growth, which partly get invested in key sectors like infrastructure. IRDA has estimated that the additional capital requirement of the insurance sector would be Rs. 55,000 crore (Rs.44,500 crores for the life sector and Rs. 10,500 crores for the non-life sector) over the next five years, which may not be taken care of by the limited domestic sources. Further, it was stated that the foreign equity potentially enables transfer of technical knowhow and better customer service through improved practices and competitive pressure. The FDI allowed in Insurance sector in other countries, the sectoral FDI limits existing in the country for other sectors and the key provisions proposed in the Bill for safeguarding the interests of the policy-holders were also highlighted. Giving specific instances of quantum of FDI in different countries, the Department submitted that it was 100 percent in Japan, South Korea, Hong Kong; 80 percent in Indonesia and 50 percent in China.

11.1.3 The Secretaries, Departments of Financial Services and the Industrial Policy & Promotion, submitted that the concept of 'ownership and control' as contained in the Bill, is prescribed in the existing FDI Policy and is in consonance with the Companies Act. The Secretary, Department of Financial Services explaining the importance of the proposed raise in FDI limit in insurance sector stated that after opening up of the insurance sector in 1999, 53 companies are presently operating, out of which 45 are in the private and 8 in the public sector. Out of the 45 companies, 38 companies are in joint venture with foreign partners and out of the total capital of Rs. 25,000 crore in the life sector, Rs 6,000 crore is foreign capital, as it cannot go beyond this limit due to the 26 % cap. In the non-life sector too, the foreign capital is touching the 25 % limit, which points towards the fact that the sector is not growing due to lack of capital.

11.1.4 The Secretary, Department of Financial Services also pointed out that the total percentage of insurance FDI is hardly one percent of the total FDI which is coming into the country and presently, very small percentage of the population is covered by life insurance. The Secretary, DIPP informed that Japan accounts for 34 percent of the inflows in the insurance sector, while USA, Germany and UK account for 11.33, 11 and 10 percent of the FDI inflows, respectively.

## **11.2 Representatives of the General Insurance Council (GIC)**

11.2.1 The representative of the GIC after explaining the role of the GIC in the insurance industry referred to Clause 52(2) of the Bill, which states “No person shall act as an insurance agent for more than one life insurer and one general insurer” and the official amendment which has added “or one health insurer” to the clause. He pointed out that more than 20 lakh agents will not be available for stand-alone Health Insurance Companies because the agents would choose to be in the Life Insurance and General Insurance as there are many more products for the agents to sell as compared to the stand-alone health insurance sector. He therefore suggested that the words “or one health insurer”, should be replaced with “one life insurer, one general insurer and one health insurer”, which would result in making available all of these 20 lakh agents for health insurance distribution.

11.2.2 As regards the flexibility of capital, the GIC stated that it should be left to the insurance company to decide whether they need FDI or list the company and get foreign portfolio investors. On the technology front, they informed that the industry has progressed substantially in the last few years and the Indian companies with foreign tie-ups have reached global level. As regards the relation between FDI and penetration, the representative informed that in the last 13 years, since the privatization of the insurance sector and the cap of 26 percent, the General Insurance industry has grown from Rs.9,700 crores to Rs. 80,000 crores. So there has been substantial growth and the fact that 20 odd companies have come into the market, in addition to the public sector companies itself has really resulted into a deeper penetration. He also informed that as per the IRDA guidelines, a total of fifty-five percent of the insurance sector’s investments are in the government securities/infrastructure for investment in the country, out of which 40 percent has to be invested in Government securities, 5 percent in housing and 10 percent in infrastructure, thus in a way it is an investment in the country’s development. Further, they added that when there is competition, prices are naturally kept under check, which benefits the consumer.

## **11.3 Representatives of the Public Sector Insurance Companies**

11.3.1 As regards increase in the FDI limit, the Life Insurance Corporation (LIC) stated that if more foreign capital comes into the industry, it would benefit the life insurance industry as a whole and past experience has proved that public sector insurance companies such as LIC have done better in the face of competition. It was also submitted that LIC has been a front-runner in the use of technology and is the second entity to use mainframe computers in India.

## **12. Deposition in the meeting held on 19<sup>th</sup> September, 2014:**

### **12.1 Representatives of the Private Sector Insurance Companies**

12.1.1 The representatives of the Private Sector Insurance Companies referring to the advantages of increase in FDI limit pointed out that insurance being a capital-intensive and low return business, it is a better option to expose foreign capital to a low return industry, in place of scarce Indian capital. Foreign companies would also bring in latest technology and also provide access to global re-insurance market besides boosting infrastructure sector as the foreign capital would be invested in Government Securities and sectors as per IRDA guidelines. Private insurance companies cited allowing entry of Lloyds to set up a base in the country as a positive step as Lloyds with its recognition world over for its innovation and new products, would significantly improve our domestic and global standing. The representative also stated that presently there is no national catastrophic pool in India which provides for insurance of natural calamities and re-insurance cover would create such a pool and would benefit the people. He also stated that foreign companies would bring in the expertise and help in increasing penetration of the insurance sector. The representatives also touched upon the nature of the General Insurance Industry and how it differed from the Life Insurance business in terms of return on capital employed, market penetration and also the ratio of equity to premium charged from consumers.

12.1.2 The Private Sector representatives also stated that there may be hindrances to the amount of FDI coming in, if the full management control lies with the Indian shareholders as per the provisions of the Bill. It was suggested that while the FDI limit may be increased to 49 percent, there should be no provision for control and instead it should be left to the shareholders to sort out amongst themselves, based on their share holdings.

12.1.3 As regards the low penetration of health insurance, the representative of a health insurance company stated that about sixty percent of the total hospital expenses are met by out-of-pocket expenditure of an individual and the remaining is funded by Government, the employers or the insurance policies. Giving the statistics, he stated that about 4% of our GDP i.e about Rs.3,00,000 crore in a year is spent on healthcare, out of which Health insurance is about Rs.20,000 crore, while the remaining Rs.2,80,000 crore is accounted for by out-of-pocket expenses of the citizens of this country. Therefore, if health insurance increases, the out-of-pocket expenses of citizens would reduce. Further, the type of products offered under health insurance such as coverage for doctor consultations, diagnostics, medicines etc. which are presently unavailable, would also be made available if the foreign companies with experience of overseas markets are allowed to come in.

12.1.4 Referring to clause 52(2) of the Bill, it was suggested that to ensure that agents are able to sustain a reasonable livelihood, they should be allowed to work with one life insurance, one general insurance and one health insurance company. However, the representative of the General Insurance Company disagreed and stated that the agents

who have been trained by the general insurance companies would move away to the health insurance companies, putting them at a disadvantage.

12.1.5 Referring to the penalty provisions, the representatives stated that the proposal for a penalty upto Rs. 1crore would be too stiff for companies and the companies in fear of losing Rs.1 crore from a single case would restrict their workforce and recruit less agents and therefore a stringent penalty would discourage companies to expand which in turn would adversely affect the desired aim for achieving higher penetration of the insurance sector.

## **12.2 Representatives of the Employees and Brokers Associations of Insurance Sector.**

12.2.1 The representatives of the employees associations and brokers association were unanimous in their opposition to the need for enhancing the FDI limit. They gave a detailed historical perspective of the growth trajectory of the public sector insurance companies and gave a comparative picture of the insurance industry *vis-à-vis* the private sector, prior to allowing any FDI and post FDI and also pointed out that the objectives that were proclaimed before opening up the sector for FDI have not been met to a great extent. Citing an example, they stated that a single product that the private insurance companies brought *viz.* Unit Linked Insurance Plan (ULIP) did not benefit the large number of insuring public, while the private companies earned enormous profits through lapsing of the policies and the higher cost that was incurred in terms of surrender values. Therefore, they argued that it has not brought any significant gain to the insuring public.

12.2.2 As regards the second proclaimed objective of mobilizing money for investment in the infrastructure of this country has also not been achieved. Referring to the portfolio of the private companies *vis-a-vis* the public sector companies, the representative pointed out that the largest portfolio of the private companies were the Unit Linked Insurance Plans (ULIP) and nearly 70 per cent of the funds of the private companies are only through ULIPs that are basically invested in the equities rather than the long-term infrastructure projects. In comparison, nearly 80-82 per cent of the funds of the public sector have come into the long-term infrastructure projects.

12.2.3. As regard the objective of bringing in more foreign companies, the representative stated that even the 26 percent FDI limit has never been a barrier limit for the foreign insurance companies, as all major foreign insurance companies are operating in the country, since India has a demographic advantage and a growing market. He also expressed an apprehension that even if the foreign equity is raised to 49 percent, it may not result into actual expansion of the capital but may only result into the transfer of the shares from domestic insurer to the foreign insurer. He also pointed out that there is absolutely nothing in the Bill to ensure that whatever investment that comes in would expand the market and expand the capital base. They also stated that the opinion that insurance sector is capital intensive is not true, as premium is collected in advance from the policy holders and is redeemed only after 15 to 25 years.

12.2.4. They also pointed out that over the last few years, the world insurance sector has been going through a crisis and many of the foreign insurance companies that had come in, have either reduced their business or have quit the Indian market. He cited the specific cases of some Insurance companies which have sold off their stakes and therefore the objective of increasing foreign capital has not been met. The representative also stated that even with the 26 percent limit, the penetration of the private sector in the rural insurance business has been quite low while public sector companies have performed better.

12.2.5. Referring to the section 40 (2) of the Insurance Act, 1938, regarding limits for commissions payable to the insurance agents, which has been proposed to be deleted in the Insurance Bill, he stated that such a deletion would have an adverse impact on the insurance agents as they would lose the statutory protection which has been provided by the Insurance Act, 1938. Similarly, deletion of Section 44 of the Insurance Act, 1938 wherein there is a provision to pay a hereditary commission to the dependents or legal heirs in case the agent expires, would also deprive the agents of a statutory protection, since there are no social security or pension schemes. The representative therefore suggested that these two Sections be retained as it is.

12.2.6. The representative highlighted Clause 58 seeking to substitute Section 45 of the Insurance Act, 1938 which provides that no life insurance policy shall be called in question on any ground after a period of five years instead of the existing provision of not calling to question a policy on ground of misstatement after two years, though it has been further increased to three years by an official amendment. He opposed the move on the ground that five years is too long a period, and this period can be conveniently misused by the insurance company to repudiate genuine claims of the policy holders. However, it is to be noted that this has been taken care through an official amendment which makes it three years from the originally proposed five years.

### **13. Deposition in the meeting held on 26<sup>th</sup> September, 2014:**

#### **13.1 Representative of Confederation of Indian Industry (CII), Federation of Indian Chambers of Commerce and Industry (FICCI)**

13.1.1 The representatives of the CII and FICCI, referring to Clause 50 of the Bill pertaining to substitution of Sections 40B and 40C of the Insurance Act, 1938 regarding limits on expenses of the management, stated that the IRDA may prescribe the limits on the expenses of the management of an insurer, after considering the size and age of the insurer. As regards Clause 58 of the Bill, pertaining to calling in question a policy on the grounds of mis-statement after two years, they stated that the provisions as existing in the current Act may be retained, however the period may be increased to three years. The representative also referred to the increase in quantum of fines under Clauses 91, 92, 93 and 94 of the Bill and stated that it is unreasonably high and therefore suggested that the quantum of penalties especially Rs. 25 crores as specified under Sections 104 and 105B of the Insurance Act, may be reduced to Rs

One crore. As regards Clause 34 pertaining to substitution of Section 31B regarding power to restrict payment of excessive remuneration, they felt that IRDA should decide the remuneration in case it is felt that it is disproportionate. They also commented on Clause 76 of the Bill regarding substitution of Section 64F of the Insurance Act, regarding constitution of the Executive Committee of the Life Insurance Council and felt that there was no need to specify various categories of stakeholders. On the definition of 'control' under Clause 3 of the Amendment Bill, they stated that it should imply control by the Indian shareholders and have the meaning assigned to it by the Companies Act, 2013. They also pointed out that as per the Section 80(C) of the Income Tax Act, insurance premiums have been clubbed with short term fixed deposits for the rebates. However, insurance being separate from savings, they should atleast be treated at par with the long term savings.

13.1.2 The representative explained that the increase in FDI limit would translate into additional competition and more consumer choice and the intention of making the consumer more secure is embedded in the Act itself. He further stated that presently there are 24 companies in the sector, which is expected to increase further with the increase in FDI limit, ensuring competition and offering wide choice of products to the consumers. On the issue of rural penetration the representative explained that as per statutory requirements, every company which is given license is required to have a certain proportion of its policies specifically for the rural sector and presently about 20 percent of the policies and 30 percent offices are in the rural segment. As regards capital requirements, the representative stated that as compared to the other countries, Indian rules are very conservative and require the companies to hold more capital than required and hence there is a need for attracting more capital through FDI route.

## **13.2 Representatives of the Indian Institute of Insurance Surveyors and Loss Assessors (IIISLA)**

13.2.1 They pointed to the proposed amendment to Section 64UM of the Insurance Act, in the present Insurance Laws (Amendment) Bill, 2008, under Clause 86 and its implications on consumer interest. They submitted that the sub-sections (2), (3), (4), and (5) of Section 64UM have been deleted in the amended Bill. They stated that as per Sub-Section (2), there is a mandatory requirement to assess the loss by an independent person who has been licensed by the IRDA. Further Sub-section (3), empowers the authority to call for an independent surveyor report, in case of any dispute in settlement of claim between the insured and the insurer and ultimately, the IRDA can appoint an independent surveyor and obtain a report. Sub-section (4) says that based on sub-section (3) and the report obtained by IRDA, the IRDA has the power to direct the insurer to settle the claim and the insurance company is bound to settle the claim, while sub-section (5) says that payment of surveyor fee has to go only to the surveyor who has dealt with the claim. He stated that all these mandatory provisions have been taken away in the new Bill and suggested that these provisions should be retained. On a query by the Committee as to how these provisions were deleted, the representative of the Department of Financial Services stated that while these provisions have been removed in the Bill, they would be included in the regulations under the Act. Further, this is in accordance with the recommendations of the Standing Committee and would be taken care of at the time of formulation of the regulations by the IRDA, as proposed vide clause 86 of the Bill.



### **13.3. Representatives of the Life Insurance Council**

13.3.1 The representatives of the Council, in support of increase in FDI limit stated that capital is required for two reasons, firstly at the time of sale of any insurance product, a strain is created, because the premium a customer is paying is much less than the reserve that is being created and the expenses actually incurred. Secondly, a lot of expenses are incurred initially in building the distribution infrastructure in hiring the agents, training the agents, creating branch network etc. Hence the industry needs capital support for faster growth. He also stated that increase in FDI limit would bring in foreign players who are experts in the field of life insurance and would bring more expertise and more players in the insurance sector, thus ensuring better protection coverage for the Indian population. On the issue of Indian control as proposed in clause 3(iv) of the Bill, he suggested that a majority of resident Indians should be appointed on the Board of the companies. The representative also stated that the current proposed definition seems to exclude health insurance from the definition of a life insurance, and therefore submitted that as life insurer has the expertise to design and decide the price and administer health insurance products, life insurance companies should not be excluded from offering health insurance products to the masses of the country. He also suggested that the life insurers should be allowed to sell 'accident death only' insurance products which are presently prohibited.

13.3.2 As regards the penalty provisions, as contained in Clauses, 91, 92, 93 and 94 of the Bill, the representative stated that currently in the Insurance Act, 1938 there are various provisions for penalties which go upto five lakh of rupees. The current Bill proposes to increase it to Rupees One crore for certain violations and also it goes upto Rs. 25 crore for certain specific violations. He therefore, suggested that the quantum of penalties which are being proposed should be kept in harmony with similar penalty provisions in other financial services so that the penalties are consistent and not excessively high. On the issue of claim being repudiated under Clause 58 of the Bill, the representative suggested that the companies should be given the right to repudiate, if the life insurance company can demonstrate that, even in case of death after three years, the intent was fraudulent.

13.3.3 On the issue of insurer's liability for acts of the agent, the representative stated that in the proposed amendment, the insurer shall be responsible for all the acts and omissions of its agent, including violations of code of conduct. He pointed out that it would be very difficult for the insurance companies to manage the acts of the agents as there are a huge number of agents all over the country. As regards the constitution of Life Insurance Council, the representative stated that as per the proposal in the Bill, the Executive Committee of the Life Insurance Council shall consist of four representatives of members of the Life Insurance Council elected by the members and four members will be nominated by the IRDA and out of these four, one will be an eminent person and the rest three will be representing insurance agents, intermediaries and policy-holders. The representative stated that the Council being a body representing the industry, members from outside are not required.

## **14. Deposition in the meeting held on 14<sup>th</sup> October, 2014:**

### **14.1 Representative of Lloyds'**

14.1.1 The representative of the Lloyd's appreciated the provisions in the Bill which recognize Lloyd's legal structure and permit members of Lloyd's to transact reinsurance business through branches in India. However the representative explained that Lloyds' itself is not an insurer or reinsurer but a statutory corporation, which provides a platform and supervises the carrying on of insurance and reinsurance business by its members. The Members are not only limited companies, Scottish Limited partnerships or UK Limited liability partnerships but also include individuals. In fact the members of the Lloyd's carry on insurance business as members of syndicates, each syndicate being managed by a managing agent registered by the Lloyd's and accepting business on behalf of the syndicate. Accordingly, the representative requested that the specific reference to Lloyd's be amended in the Bill by adding the words "and any member of Lloyd's" in the reference to Lloyd's found in the explanation under section 2 clause 9(d) of the Bill and elsewhere in the Bill. The representative also requested for clarifications on the provisions of the Bill relating to the supervision of the branches of the foreign insurers which was to be done by IRDA in earlier draft, which however is proposed for deletion by an amendment.

## **14.2 Representative of Institute of Actuaries of India**

14.2.1 The representative of Institute of Actuaries of India stated that presently, there is no level-playing field between the three insurance companies *viz.* life insurance, general insurance and health insurance companies and several life insurance companies are operating in health insurance business also. He therefore suggested to allow an insurer to do only one specific line of business and review the definitions of life insurance, health insurance and general insurance so that all the three insurance companies can act independently. Regarding the aspect of investment assets and solvency, he suggested that these areas should be left to the IRDA to decide. He also pointed out that the Act is stressing on the financial condition reporting of the life insurance companies, whereas it is important for general and health insurance companies too. As regards Section 113 about acquisition of surrender values, he suggested that it should be left to the regulator as it is already looking into the product approvals. He welcomed the move to increase the FDI limit from 26% to 49% as insurance business is highly capital intensive, however, he requested that the definition of "foreign investors" and "portfolio investors" in Section 2(7A)(b) may be clarified.

## **14.3 Representative of AON Global Insurance Brokers Pvt. Ltd.**

14.3.1 The representatives of the AON Global Insurance Brokers Pvt. Ltd. stated that the Bill treats the insurance brokers as insurers and suggested that they be treated more like professional services firm. He also stated that till the FDI limit is increased to 51%, the Indian operation of the company cannot be consolidated and the requirement that the Indian insurance company must be an Indian owned and controlled entity would be a very challenging issue to deal with. He suggested that at least they should have equal management rights with the joint venture partner.

## **14.4 Representative of Deutsche Bank**

14.4.1 The representatives of the Deutsche Bank stated that if the FDI limit is increased to 49%, about five to seven billion dollars of FDI is expected to come in for the infrastructure sector. He hoped that there should be no distinction between FDI and FII so that capital can be raised from the capital markets. He pointed out that when FDI limit was 26%, investment was under the automatic route, however under the 49%, it is being proposed that it goes through FIPB. He submitted that it will be easier from a procedural perspective, if it continues to be under the automatic route. As regards ownership, he stated that Indian ownership is not a deterrent and the insurance players globally would accept Indian ownership provided that the definition of Indian ownership is very clear in the Bill.

## **14.5 Representatives of some other organizations, experts and stakeholders**

14.5.1 A former Chairman of the LIC while deliberating on the Bill, suggested that in the interest of policyholders the period of two years during which the policy can be questioned on grounds other than fraud should be retained; a new provision be added authorizing the Authority to issue such directions as it deems fit, to specify the manner in which the premium paid under the policy till the date of repudiation on grounds be appropriated and the Bill should specifically indicate that the provisions of the clause will apply to policies issued on and after the date on which the Act becomes effective. He also pointed out that the LIC's repudiation percentage is 1.1-1.3% which is very creditable as compared to private insurers. He also had reservations on the shifting of the onus of proof on the families of life assured on his death. Another representative from National Insurance Vimo Sewa Co-operative Ltd raised the aspect of strengthening the micro insurance sector, which covers the poor people in the country and requested that the capital requirement may be reduced to enable them to grow. A representative of the All India LIC Employees Federation pointed out that the private companies bank upon unit linked business, where the insurer has no risk, while the insured faces the risk as all the money is invested in a fluctuating share market.

14.5.2 A representative of the Indian Centre of Islamic Finance apprised the Committee about the benefits of the '*Takaful*' system of insurance as compared to the conventional system of Insurance. He stated that the '*Takaful*' system is based on the mutual co-operation, responsibility, assurance, protection and assistance between groups of participants and across the globe 26% to 33% of insurance comes from such mutuality and cooperation. He suggested that in addition to the conventional system, the other systems of insurance viz. '*Takaful*' should be also allowed to promote competition, diversity and to stop fraudulent activities that has been reported in conventional insurance business. He submitted that homogenization of insurance industry is not good for the country and all kinds of structures and products that are possible to help financial inclusion of people must be looked into. The representative pointed out that the GIC is offering Islamic Insurance in the middle-east countries and is doing good business there. He however added that before its introduction, the aspect of regulatory gap may also be looked into, as many insurance companies are offering products without registration. He suggested the hybrid model of Islamic insurance

existing in almost 75 countries, especially in the middle-east, which can bring huge investments in the country from a large number of Islamic Insurance Companies, must be explored.

## **15. Deposition during the study-visit of the Select Committee to Mumbai on 27<sup>th</sup> and 28<sup>th</sup> October, 2014**

The Select Committee during the process of examination of the Bill undertook a study-visit to Mumbai on the 27<sup>th</sup> and 28<sup>th</sup> October, 2014 to hear the views of various organizations/stakeholders viz. Government regulatory bodies namely, Securities and Exchange Board of India (SEBI), Insurance Regulatory and Development Authority (IRDA), Reserve Bank of India (RBI); experts; Public Sector Companies such as LIC of India, GIC of India; besides Insurance agents organizations, Private Companies and Foreign Reinsurance Companies, some of whom had submitted their memoranda to the Committee.

### **15.1 Representatives of IRDA**

15.1.1 The representatives of the IRDA made a power point presentation covering the various aspects of the Insurance industry and their suggestions on the amendments proposed in the Bill and the need for capital in the insurance sector. The gist of the presentation made by IRDA was as follows:-

#### ***General issues:***

- (i) The Insurance sector has mobilized 16.60% of financial savings of household sector in 2013-14;
- (ii) The sector has resulted in an investment of Rs.1.77 lakh crore in 2013-14 in housing and infrastructure sector;
- (iii) Insurance sector pools risks and enables corporate entities to take higher risks and is also a stability provider in the time of financial crisis; and
- (iv) The insurance industry needs long term capital for increasing footprint, higher penetration of urban and rural markets, infrastructure, recruitment and retention costs, investment in technology, innovation i.e. new products, new distribution models, meeting solvency norms and competition to benefit the customer.

#### ***Suggestions on some provisions of the Bill:***

- (i) Clause 3 (viii): Definition of Life Insurance does not include Health Insurance, hence it should be suitably amended to enable life insurers to offer health insurance cover;
- (ii) Clause 3(xi): Definition of reinsurance indicates that *all* the risk can be reinsured, which can be interpreted as allowing "fronting" and hence IRDA proposed that a percentage of retention within India;

- (iii) Clause 8(v): The wordings in the Bill excludes a foreign company engaged in reinsurance business through a branch established in India and includes only joint ventures, hence it may be suitably amended;
- (iv) Clause 21: The provision to display records of the policies and claims on the website besides being voluminous, would also involve concerns of policyholder's privacy, hence the expression "and displayed on its website" be deleted;
- (v) Clause 28: The explanation regarding investments if retained would mean that all the Insurers who have foreign capital of more than 33.33% have to entrust the management of Assets to Trustees, hence it may be deleted;
- (vi) Clause 28: IRDA may be allowed to provide for regulations on conditions and restrictions in relation to creating charge, lien, etc.
- (vii) Clause 38: The exemption from carrying on Motor Third Party business should be extended to all specialized insurers who do not transact motor insurance business;
- (viii) Clause 44 & 94: For Clause 44 the original wording in the Act may be retained to allow the authority to nominate officers keeping in view the gravity of contravention required during search and seizures. While for Clause 94, as the designation may undergo change from time to time, the adjudication may be conducted by officers not below the rank of Joint Director or equivalent in IRDA;
- (ix) Clause 48: The clause deals with dispute regarding priority of payment in case of multiple assignments of insurance policies. The Authority may be flooded with large number of such disputes, therefore the Authority may be empowered to frame regulations in this regard;
- (x) Clause 50: The commissions on obligatory cessions are reimbursement of part of the acquisition costs incurred by the direct insurers and therefore they are obligated to receive commissions. If no commissions are paid to the direct insurers they will be at a loss. Hence the provision should be deleted;
- (xi) Clause 52(1): The word 'person' in the clause would indicate a firm also. This provision is to distinguish 'individual agents' who are to be appointed by insurance companies from 'corporate agents' who are included in the definition of 'intermediary' by an Official Amendment;
- (xii) Clause 52(2): An official amendment has suggested the words "and one general or health insurer" in addition to one life insurer. Further IRDA has permitted some insurance companies to utilize the services of agents of other insurance companies. Hence an enabling provision was suggested;

- (xiii) Clause 58: Once the policy is liable to be repudiated on grounds of misstatement there cannot be refund of premium and provision for refund of premium may encourage misstatements. Hence deletion of the proviso was suggested; and
- (xiv) Clause 109: Keeping in view the developments in the area of 'e-commerce' in insurance and introduction of new intermediaries, the IRDA may be empowered to allow new forms of distribution channel by way of regulations. Hence revision of the definition was suggested.

## **15.2 Representatives of RBI and SEBI**

15.2.1 The representative of the Reserve Bank of India (RBI) submitted that its role is limited in the instant matter. However, as regards the clause 52(2) of the Bill which states that no person shall act as an insurance agent for more than one life insurer and one general insurer, she stated that for increasing the insurance distribution and penetration, an open architecture model may be deemed as a more appropriate business model and incorporating such a prescription in the Act may lead to inflexibility in business model. Hence such a prescription should be a part of IRDA regulations and not be a part of the statute, thereby enabling the stakeholders to adapt to the changing business needs and demand for the product.

15.2.2 The representative of the Securities and Exchange Board of India (SEBI) stated that the SEBI Act, 1992 is in place to promote orderly and healthy growth of the security market and for investors' protection. Further, he stated that the SEBI and IRDA presently regulate instruments and intermediaries as per statutory mandate and a joint mechanism is in place for resolving inter-regulatory disputes, if any. He also mentioned that the Insurance Laws (Amendment) Bill, 2008 does not provide for any overriding provisions which may derogate the powers vested in SEBI through various parliamentary enactments.

## **15.3 Experts in the field of Insurance business**

15.3.1 The experts submitted their views before the Committee and key points of submissions made before the Committee are as below:

- (i) Instead of allowing foreign reinsurance companies to open branch office for reinsurance business, the FDI limit should be increased to 74% or above for the companies to set up corporate entities in India and bring in adequate long term capital;
- (ii) As regards the amendment to provide representation to various stakeholders in the Executive Committee of the General Insurance Council, it was proposed that it should consist of members from the insurance industry only;
- (iii) As regards provision 64UM, though the Insurance Regulator may continue to frame suitable rules & regulations for Surveyors & Loss Assessors, it is desirable to specifically mandate the Regulator by

provisions of the Act to provide 'Self Survey' limits to facilitate faster settlement of claims as well to ensure that small claims do not result in increase in the cost of claims administration;

- (iv) A need to bring in clarity in the Bill, as to whether the proposed provision of Indian Management and Control would apply only to new arrangements or whether it will apply to existing agreements well;
- (v) As regards the provision regarding Policy not to be questioned on grounds of mis-statement after 5 years, it was stated that it would be in the interests of the customers that the time limit for questioning the proposal (other than in case of fraud) should be applied to long term health insurance products also and not limited to life only;
- (vi) The PSUs in the insurance sector need repositioning and it is extremely important to construct a level playing field for the PSUs and choices similar to other players in the market should be made available to them.

## **15.4 Representatives of the LIC and GIC**

15.4.1 The Committee heard the views of the representatives of the PSUs in the Insurance sector *viz.* Life Insurance Corporation of India (LIC) and General Insurance Corporation (GIC) regarding the reinsurance subsidiary of GIC. The LIC made a power point presentation covering the various aspects of the Insurance industry and also submitted written submissions. The gist of the presentation made by LIC was as follows:-

- (i) LIC is a market leader in the insurance market with a market share of 74.96% and presently has 29.61 crore policies in force and has 2048 branches across the country;
- (ii) As regards coverage all towns having a population of 10,000 or more as per 2001 census are covered by the LIC;
- (iii) As regards claims performance it has a high percentage settlement rate of 91.14% as regards maturity and 82.32% as regards death; and
- (iv) A total of 5.59 crore lives have been covered under the social security schemes

### ***Written submissions made by LIC:***

- (i) Clause 48 – Definition of Nominee will be modified to have two types of nominees, namely, the 'beneficial nominee' and the 'collector nominee'. It was suggested that two types of nominees are not required as the settled legal position is that the rights of a nominee are only to the extent of giving valid discharge to the insurance company;
- (ii) Clause 56- The insurance company should not be penalized for any misstatement by the applicant as the Agent while filling the proposal

form is acting as the Agent of the Assured and for any mistake or misstatement committed by the Agent the insurance company is not liable; and

- (iii) The increase in the FDI from 26% to 49% was welcomed by the LIC as the organization has performed consistently better in the face of opening up of the industry to private sector and introduced new products, improved its technology and has penetrated in deep rural areas.

15.4.2 The GIC representatives made a power point presentation covering the various aspects of the Insurance industry, its reinsurance subsidiary and also submitted written submissions. The gist of the presentation made by GIC is as follows:-

- (i) GIC Re is a Indian reinsurance company and provides services to the Indian general and life insurance companies;
- (ii) Reinsurance to insurance companies in over 190 countries;
- (iii) Leading reinsurer for insurance companies in SAARC, African countries and the Middle East and is now a leading global reinsurance company; and
- (iv) GIC Re suggested preferential treatment to locally incorporated reinsurers.

***Written submissions of GIC:***

- (i) With the increase in FDI limit for existing 26% to 49% some key reinsurance players may find Indian insurance market more attractive and the market is expected to become more vibrant and benefits of insurance services will reach out to the masses;
- (ii) Entry of Lloyds in the Indian market as an Indian Reinsurer will bring in wealth of knowledge and expertise together with underwriting capacities. This will have the potential to enhance the depth of reinsurance services in the domestic market and may act as a catalyst to spur the growth and development of Indian insurance industry while helping the economy by retaining much of the reinsurance premium which flows out of country today;
- (iii) The limit of rupees five thousand crore under Clause 6(2) should be upwardly revised to at least Rs 7,500 crore from Rs 5000 crore as Indian currency has lost value in last two years. Besides, it must be ensured that only prominent, established and financially strong reinsurers enter the market; and
- (iv) Clause 17 of the Bill dealing with segregation of funds is expected to create operational issues and will make management of funds more complex and hence it should be deleted.



## **15.5 Representatives of LIC Agents' Organization of India**

15.5.1 The key points of submissions made by LIC Agents' Organization of India were as follows:

- (i) Clauses relating to limitation of expenditure on commission and payments of commission of insurance agents have been omitted in the Bill, hence an alternate provision has to be made as livelihood of agents is at stake;
- (ii) Increase in FDI is not in national interest as when the foreign share is increased, the proportionate profit element in the insurance industry will flow out from the country;
- (iii) Use of the Foreign Investment Promotion Board route to allow FDI in insurance sector is improper as it cannot overcome the legislative pre-eminence of Insurance laws and powers of IRDA; and
- (iv) The amendment in the General Insurance Act, 1972 to allow 49% share by the private companies would not be beneficial as it would neither bring substantial dividends nor help in infrastructure development.

## **15.6 Representatives of some private companies and merchant's chamber**

15.6.1 The Committee thereafter heard the representatives of some private companies who had submitted their memoranda to the Committee. Following were the key points of submissions made before the Committee by the private companies:

- (i) Increase in FDI limit will provide additional inflows from existing foreign partners, encourage new foreign/ global insurers to review their joint venture opportunities with renewed vigour, create new employment opportunities and create new products;
- (ii) Proposed Indian management and control definition is rigid, instead it should be able to accommodate the differences that may arise;
- (iii) Proposal to include the FIPB and DIPP approval for foreign equity will delay the existing efficient process of approval by IRDA, and
- (iv) FII investment is speculative in nature, whereas the insurance industry needs long term capital *i.e.* FDI without any conditionality.

15.6.2 The representatives of Indian Merchant's Chamber were also heard by the Committee. Gist of submissions made before the Committee were as follows:

- (i) Bill should provide for compulsory capital market listing of all Indian Insurance companies to ensure transparency and public accountability;

- (ii) Provisions under section 64 UM should be dropped and the regulator be empowered to regulate with the fast changing risk profiles and ever evolving market requirements;
- (iii) Executive Committee of the GIC should be a self regulatory organisation of the insurers;
- (iv) Upper limits of penalty has been raised to exorbitant levels and should be more realistic;
- (v) An empowered ombudsman scheme for the policy holder should handle the grievances of the policy holders; and
- (vi) Provision in the Bill should be introduced for Compulsory credit rating of the insurers, to bring accountability in the public domain.

## **16. Clause-by Clause Consideration of the Bill**

16.1 The Committee after deliberating at length on the various provisions of the Bill and hearing the views/suggestions of a number of stakeholders *viz.* concerned Departments of Government of India, IRDA, SEBI, RBI, various public & private sector Insurance Companies, Insurance Councils, experts of the subject and other individuals/organisations/ associations who had submitted their memoranda before the Select Committee, took up clause-by-clause consideration of the Bill at its meetings held on the 2<sup>nd</sup> and 3<sup>rd</sup> December, 2014. The Committee mainly deliberated upon the clauses as mentioned below in seriatim, whereon it had received suggestions for amendment from various stakeholders, rest of the clauses of the Bill, which have amendments of routine drafting nature and typographical inaccuracies, were adopted by the Select Committee without any modifications. The Committee considered memoranda, documents and evidences tendered before it as well as the views expressed by its Members in formulating its recommendations.

### *Clause 3*

16.2 This clause seeks to amend section 2 of the Act to substitute, amend, insert the definitions of actuary, health insurance business, Indian insurance company, insurance co-operative society, insurer, regulation, re-insurance, Securities Appellate Tribunal and omit certain redundant clauses from definitions.

### *Official Amendments to this clause*

**OA no. 4:** Substitution of the words “means actuary” by the word “means an actuary”.

**OA no. 5:** Definition of “Health insurance” fine-tuned to bring clarity by deleting some words and replacing the same with “whether in patient or out-patient travel cover and personal accidental cover”. The definition of Health insurance as proposed in clause 6C of section 2 of the Insurance Act to read as "(6C) 'health insurance business' means the effecting of contracts which provide for sickness benefits or

medical, surgical or hospital expense benefits, whether in-patient or out-patient travel cover and personal accident cover”.

**OA no.6:** Replacement of the word “Companies Act, 1913” with “Companies Act, 2013”.

**OA no.7:** Replacement of year 2008 with 2014.

**OA no.8:** Major change relates to enabling 49% foreign equity under Section 2(7A)(b) with certain safe guards such as “Indian owned” and “Indian controlled” proposed under the definition of Insurance company. It seeks to amend section 2(7A)(b) of the Insurance Act so as to define an “Indian insurance company”. The existing section 2(7A) (b) may be replaced as follows:

“(b) in which the aggregate holdings of equity shares by foreign investors including portfolio investors, do not exceed forty-nine per cent of the paid up equity capital of such Indian insurance company, which is Indian owned and controlled, in such manner as may be prescribed;”.

**OA no.9:** Omission of explanation after Section 2(7A)(c). Consequential change due to proposed modification in Section 2(7A)(b) of the Insurance Act, 1938.

**OA no.10:** Insertion of explanation after Section 2(9). Consequential change due to proposed modification in Section 2(7A)(b) of the Insurance Act, 1938.

**OA no.11:** Omission of Section 2(8). As per the revised provisions, the following may be inserted after Explanation to (iv) for clause (7A):

"(iva) clause (8) shall be omitted."

### ***Committee’s Observations/recommendations***

16.2.1 The Committee deliberated at length the proposed Bill as well as the official amendment wherein the Government has conveyed its intent to raise the FDI in insurance sector from 26% to 49% with appropriate safeguard of mandating Indian ownership and control. The Committee notes that the insurance companies are regulated by stringent solvency norms and continuously require additional capital for growth.

16.2.2 The Committee also notes the views expressed by Secretary, Department of Financial Services that there is a requirement of huge amount of capital as defined by the regulator for stipulated solvency levels to maintain the trust level of stake holders in life insurance companies through solvency under all circumstances. This enhanced foreign equity will not only help in expansion of insurance coverage, comprehensive and better portfolio management, enable growth of pension sector but also potentially enable transfer of technical knowhow and other better consumer services through improved practices and competitive pressures. The Committee observed that IPOs may not be the best route for raising capital in the insurance sector as FIIs face constraints due to sectoral foreign equity caps.

16.2.3 Few Members and some stakeholders apprised the Committee that the major reason for not increasing FDI in insurance sector is that it may not be able to increase the penetration as expected or estimated by the Government, and it may be detrimental to Indian ownership and control, which may prove suicidal for our national interest. One of the Member while elaborating on this issue cited the recommendations contained in the 41<sup>st</sup> Report of the Standing Committee on Finance (2011-12) on the Insurance Laws (Amendment) Bill, 2008, wherein the Standing Committee recommended that the foreign equity to be kept at 26% as against the proposal of raising it to 49%. However, the Select Committee does not find any merit in these arguments as the total number of insurance companies has increased from a meagre 6 in the year 2000, when the FDI was permitted upto 26%, to 53 in the year 2014. The Life insurance sector recorded compounded annual growth rate of 18.42% in the last 14 years whereas General Insurance Industry witnessed compounded annual growth rate of 16.62% during that period. Besides, the health insurance sector has also shown a substantial compounded annual growth rate of 33.11% during the period 2003 to 2014. The Committee understands that these growth rates may not be as per the expectations but are substantial enough to buttress the increase in insurance coverage to the ever-increasing population. The committee also appreciated the performance of the life insurance market leader i.e. LIC which has a market share of 74.96% with 29.61 crore policies and 2048 branches across the country. Besides, it also has high settlement rate of 91.14%. It may also be mentioned that the increase in the FDI from 26% to 49% was welcomed by the LIC as the organization has performed consistently better in the face of opening up of the industry to private sector and introduced new products, improved its technology and has penetrated in deep rural areas.

16.2.4 With regard to Indian ownership and control, the Committee notes that the 'ownership' has been defined in para 2.1.28 of FDI Policy whereas para 2.1.7 of FDI Policy defines 'control' and observed that there is hardly any difference between FDI limits at 26% and 49% on the issue of ownership and control. **In view of the increasingly globalized economy and expanding global financial flows, involving liberalized foreign investment (including in India) in various fields like manufacturing, banking etc. for growth and development, the Committee is not in agreement with the argument of not increasing the cap in the insurance sector and goes with the provisions of the Bill to increase the foreign equity investment cap to 49%, which would benefit the Indian insurance sector and facilitate it to meet its capital requirements. The Committee recommends that the composite cap of 49% should be inclusive of all forms of foreign direct investment and foreign portfolio investments. The Committee is also of the view that incremental equity should ideally be used for expansion of capital base so as to actually strengthen the insurance sector.**

16.2.5 However, while deliberating on the proposed official amendment (OA no. 8) in Clause 3(iv) of the Bill that is related to Section 2(7A)(b) of the Insurance Act 1938, the Committee is of the view that the term “control” must be defined in the Act itself by adding the following explanation after the proposed text of Section 2, sub-section 7A:

***“Explanation.- The term “control” shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.”***

16.2.6 In order to encourage foreign reinsurers to set up operations in the Indian Insurance market, the Committee observed that complete clarity with respect to Section 2(9)(d) of the Bill may be set out in provisions of the Bill. The representative of the Legislative Department informed the Committee that the existing provisions inherently include Members of Lloyds and as such no change is required in the current formulation. The Committee is of the opinion that in order to facilitate the entry of Lloyds, a specific reference to members of Lloyds may be made so that once Lloyds establishes a branch office for reinsurance business in India, eligible members who satisfy the eligibility criteria specified by IRDA may be allowed to operate their business through the Lloyd’s branch without a requirement of setting up of a separate branch for themselves. **Keeping in view the scale of re-insurance business world-wide and the low level of its development in the country, combined with the huge potential, the Committee recommends that the formulation under section 2 clause 9(d) needs to be revisited and revised and if need be, an Explanation may be added to the section to do away with ambiguity, if any, so as to ensure that the re-insurance business in India achieves its true and full potential. The Committee also deliberated on submissions of IRDA on the definition of ‘re-insurance’ in the Bill as proposed in section 2(16)(b) and recommends that it may be modified in clause 3(xi) of the Bill to read as under:**

***“re-insurance” means the insurance of part of one insurer’s risk by another insurer who accepts the risk for a mutually acceptable premium”.***

#### **Clause 8**

16.3 This clause seeks to amend section 3 of the Act to regulate the manner of making application for registration of insurers by regulation and provide for appeal to Securities Appellate Tribunal against the refusal of registration by the Authority and suspension or cancellation of registration in certain cases.

#### ***Official Amendments to this clause***

**OA no. 16-** Changes of editing nature required in the clause as pointed out by Legislative Department.

**OA no. 17-**Section 3(3) of the Act relates to action on joint venture partner in case foreign partner is debarred by law of the country of domicile. Earlier withholding or cancellation of registration was envisaged in such cases. However, now it has been decided to remove the cancellation provision.

**OA no. 18-** Under Section 3 (4), it is proposed that the Authority may suspend or cancel the registration of an insurer if the business of insurer has been transferred to other insurer or amalgamated without the approval of the Authority.

Earlier the word “without the approval of the Authority” was not there.

**OAs no. 19, 20 and 21**-Provisions relating to issuance of notice by the Authority in case of suspension or cancellation of registration were amended to include clause (g) and (i) under section 3(5) of the Act.

*Committee’s Observations/recommendations*

16.3.1 IRDA in its deposition before the Committee had requested for a modification in Section 3(3) of the Insurance Act, 1938, so as to also include any foreign company engaged in re-insurance business through a branch established in India. Presently, the Section 3(3) of the said act reads as under:

*“In case of any insurer having joint venture with a person having its principal place of business domiciled outside India, the Authority shall withhold registration or cancel registration already made if it is satisfied that in the country in which such person has been debarred by law or practice of that country to carry on insurance business.”*

**16.3.2 The Committee accepts the aforesaid provision and recommends that this provision should also include any foreign company engaged in re-insurance business through a branch established in India as indicated in clause 2(9)(d). The following text may be inserted in the proposed language of the text for Section 3(3) in clause 8 of the Bill after the words “domiciled outside India,”:**

*“or any insurer as defined in 2(9)(d) of the Act,”*

**Clause 9**

16.4 This clause seeks to substitute section 3A of the Act to provide for annual fee in place of annual renewal of registration of insurers by regulation.

*Committee’s Observations/recommendations*

16.4.1 Attention was invited by one of the stakeholders regarding the provision contained in clause 9 pertaining to the section 3A (2) of the Insurance Act, 1938 which reads as follows:

*“Any failure to deposit the annual fee shall render the certificate of registration liable to be cancelled.”*

16.4.2 The Committee is given to understand that this clause provides for permanent registration of the insurers with annual renewal fee and right to cancel the registration on breach of conditions specified by the IRDA, in place of annual renewal of registration. The Committee feels cancellation should only be exercised as an option with utmost caution. **The Committee recommends that the provision of**

**cancellation should be exercised by the Authority with abundant caution so as to avoid unnecessary hardship and penalization of a good company and consequently its policy holders, especially when the shortcoming may be due to circumstances beyond its control.**

### **Clause 12**

16.5 This clause seeks to substitute section 6 of the Act to provide for capital of rupees fifty crore for exclusive health insurance business and minimum net owned funds of rupees five thousand crore for a foreign re-insurer opening branch in India.

#### ***Official Amendments to this clause***

**OA no. 22-** A proviso was added under Section 6(1) to provide for enhancing of capital in accordance with provisions of Companies Act and SEBI Act.

Further, another proviso was added to calculate paid-up equity capital.

#### ***Committee's Observations/recommendations***

16.5.1 The Committee notes submissions made before it both in favour of retaining the paid up equity capital of Rs. 50 crores for health insurance and for raising it to the level of paid up equity capital for life and general insurance *i.e* upto Rs. 100 crores. The Committee also notes the O.A. no. 22 which proposes enhancement of capital in accordance with provisions of the Companies Act and the SEBI Act for carrying on the business of life insurance, general insurance and health insurance. **However, the Committee was unanimous that a reduction in the paid up equity capital in health insurance sector as compared to the life and general insurance, would encourage non-serious players to enter the field. The Committee therefore strongly recommends that capital requirements to ensure health insurers of adequate capacity to provide these critical services to all citizens of the country, may be retained at the level of Rs. 100 crore and health insurance be given the utmost priority. The Committee also feels that IRDA in consultation with the Medical Council of India should formulate regulations to ensure that malpractices in the health insurance sector such as unnecessary investigations, procedures, hospitalization could be avoided to create a healthy vibrant health insurance sector.**

### **Clause 28**

16.6 This clause seeks to substitute sections 27, 27A, 27B, 27C and 27D of the Act to provide for broad guidelines for investment by insurers and prohibit investment of funds outside India. The objective is to make the investment provisions more effective.

#### ***Official Amendments to this clause***

**OA No. 31 and 32** – Investment of fund related provisions fine-tuned under sections 27, 27A, 27B, 27C and 27D. It seeks to fine-tune the definition of controlled funds as:

(b)"(ii) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also.

Explanation.- For the purposes of sub-clauses (i) and (ii), the fund does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion, as the case may be, is regulated by the law in force of any country outside India or it would not be in the interest of the insurer to apply the provisions of this section."

### *Committee's Observations/recommendations*

16.6.1 The Committee was apprised by the various chambers of commerce and industry that the kind of security and the limits for investment as prescribed under sections 27 and 27A may be done away with. Besides, IRDA has also advocated for allowing it to provide for regulations on conditions and restrictions in relation to various charges, encumbrances, hypothecation or lien. **The Committee feels that the powers currently envisaged in the Bill to be retained with the Government, may not be interfered with. IRDA should be free to formulate regulations subject to Act and rules.**

### **Clause 30**

16.7 This clause seeks to substitute section 29 of the Act to provide for granting of loans or advances to subsidiaries of insurance companies with the prior approval of the Authority.

### **Official Amendments to this clause**

**OA no.33-** Relevant provisions of the amended Companies Act incorporated.

**OA no.34-** Provisions relating to loans to officers of the insurers may be revised to provide for such loans as part of the salary package under Section 29.

### **Committee's Observations/recommendations**

16.7.1 The Committee was given to understand by Industry associations that the provision whereby an insurance company can give loans to a banking company and to its subsidiaries and to report this within 30 days to IRDA be included. **The Committee feels that the existing provisions of the Bill and the proposed official amendments need to be retained, as the policy holder funds have to be invested within the provisions of Investment Regulations. However, the Committee recommends that in lines 33 and 34 of the Bill on page 14 in Clause 30 instead of previous approval of the Authority it could be provided that loans to a banking company could be as per regulations framed by IRDA.**

### **Clause 38**

16.8 This clause seeks to insert section 32D in the Act for obligation on all insurers in respect of third party risks of motor vehicles.

### *Official Amendments to this clause*



**OA no. 39-** Replacement of year '2008' with '2014'.

*Committee's Observations/recommendations*

16.8.1 The Committee was apprised by General Insurance companies and Industry Chambers that the Bill proposes mandatory underwriting of Motor Third Party (TP) Business while the freedom to price TP cover is not given. It was hence suggested that this provision be dropped. IRDA further requested that exemption from mandatory provisions be extended to ECGC, AIC or any other specialized insurer who do not transact motor insurance business. The Committee feels that there is substantial merit in IRDA's contention as to expect ECGC and AIC to underwrite motor insurance business under the mandatory provision would not be justified, keeping in view their specialized nature. **The Committee recommends the insertion in Section 32D by way of a suitably worded proviso that nothing in this section shall apply to an insurer who is primarily not in the business of underwriting motor insurance business. The following text could be considered:**

*“Provided that the Authority may exempt through regulations various standalone / mono-line insurers such as those operating in areas like health, re-insurance, agriculture, export credit guarantee etc. from this provision”*

**Clause 39**

16.9 This clause seeks to substitute section 33 of the Act to provide for coverage of intermediary or insurance intermediary for investigation and inspection by the Authority.

*Official Amendments to this clause*

**OA No. 40-** This seeks to amend section 33 of the Insurance Act so as to stipulate that any insurer or intermediary or insurance intermediary aggrieved by any order made under this section may prefer an appeal to the Securities Appellate Tribunal.

*Committee's Observations/recommendations*

16.9.1 The Chamber of Industry has welcomed this official amendment wherein a mechanism has been evolved to prefer an appeal with the Securities Appellate Tribunal. The Standing Committee on Finance had also recommended for the same. **The Committee also agrees with the spirit of the amendment to provide redressal to the aggrieved through an appeal with the Securities Appellate Tribunal.**

**Clause 48**

16.10 This clause seeks to substitute sections 38, 39 and 40 of the Act dealing with assignment and transfer of insurance policies to make a clear distinction between absolute and conditional assignments of life policies. It also provides for a clear distinction between a beneficial nominee and a collector nominee by order to provide

timely and adequate benefits to the policy-holders. It also empowers the Authority to regulate payment of commission for procuring business.

### *Official Amendments to this clause*

**OA no. 42-**Under Section 38, provision modified to prohibit transfer / assignment of policies if it is for trading purpose.

**OA nos. 43 to 52-**Sections 38, 39 and 40: substitution of alternative expression.

**OA no. 53-** Provisions of making payments to representatives of policy-holder and regulations on this withdrawn under Section 39(12).

**OA no. 54-**Replacement of year 2008 with 2014

### *Committee's Observations/recommendations*

16.10.1 A public sector insurance company with respect to Clause 48 pertaining to Amendment to Section 39(12) pointed out that the definition of 'Nominee' is sought to be modified to have two types of nominees, namely, the 'beneficial nominee' and the 'collector nominee'. They submitted that two types of nominees are not required as the settled legal position is that the rights of a nominee are only to the extent of giving valid discharge to the insurance company.

16.10.2 The Committee feels that the suggestion of LIC merits consideration in view of the apparently settled legal position that the rights of a nominee are only to the extent of giving valid discharge to the insurance company. **The Committee is of the opinion that in light of judgements of the Apex Court, two types of nominees i.e beneficiary nominee and collector nominee may not be required and hence the Government may in consultation with the Law Ministry and IRDA appropriately modify the definition of a nominee to remove ambiguity or subsequent litigation.**

16.10.3 With reference to Section 40 (1) and (2) regarding prohibition of payment by way of commission or otherwise for procuring business, the Committee was of the unanimous opinion that the interest of insurance agents should not be compromised. **Hence, with regard to determining the commission etc. of agents and intermediaries the Committee recommends that there should be incorporation of a proviso after Section 40(2) which reads as follows:**

*“Provided that while making regulations under Section 40(1) and 40(2) of the Act, IRDA shall take into account the interests of the agents and other intermediaries concerned.”*

### **Clause 50**

16.11 This clause seeks to substitute sections 40B and 40C of the Act to regulate management expenses of life, general and health insurers and re-insurers.

### *Official Amendments to this clause*

**OA no. 55-**Provisions relating to expense under Section 40B and 40C revised to provide for regulations on limitation of expenses of management in life, general and health insurance and reinsurance business.

*Committee's Observations/recommendations*

16.11.1 The Industry Chambers and Private Sector Insurance companies in their deposition before the Committee insisted on the freedom to be given to an insurance company for remunerating their agents/intermediaries according to the services provided and their extent, which would not necessarily be in proportion to the business generated by the company. The Committee notes that this amendment in the proposed Bill takes care of omission of section 40A of the Act which omits the redundant provisions relating to limitation of expenditure on commission, as mentioned in the clause 49 of the Bill. **The Committee recommends that flexibility may be given to IRDA to prescribe the broad architecture for determination of the expenses of an insurer in any financial year as regards the remuneration to their agents/intermediaries, as it may require continuous monitoring and modifications due to the ever changing dynamics of the insurance market. The Committee also recommends that adequate protective mechanism may also be instituted by IRDA to ensure that the due commission to the agents against business done is protected through regulations and their commission structure should be determined by IRDA depending on market conditions.**

**New Clause 50 A**

16.12 Insertion of new section 40D which relates to prohibition to receive Commission on re-insurance with Indian re-insurers.

*Official Amendments to this clause*

**OA No. 56-** This seeks to insert, the following section after section 40 C of the Insurance Act.

*“40D. No insurer shall receive reimbursement of expenses or commission from Indian insurers in respect of specified percentage of the sum assured to be reinsured with Indian re-insurers on each policy in respect of general insurance business transacted in India in accordance with the provisions of section 101A of this Act.”*

*Committee's Observations/recommendations*

16.12.1 The Industry Chambers suggested for repealing of this new section on the grounds that insurers, incur huge costs for sourcing of reinsurance business and only way to recover the same is in the form of commission. They argued that prohibiting insurers from earning reinsurance commission is against the principle of free insurance. GIC argued for zero commission as proposed in the Bill as it would help GIC to recoup its accumulated losses. IRDA argued that this section was introduced recently through official amendments. The commissions on obligatory cessions are reimbursement of part of the acquisition costs incurred by the direct insurers, therefore they are obligated to receive commissions. If no commissions are paid to the direct insurers they will be at a loss. It further proposed that insertion of the

new section is against the insurance principle and it should be deleted. **The Committee is of the opinion that there is merit in the argument cited by IRDA that prohibiting insurers from earning reinsurance commission would be an impediment in the growth of the reinsurance industry. The Committee strongly recommends that the insertion of the new section 40 D may be reviewed in consultation with IRDA so that the insurers are not prohibited from earning reinsurance commission and to ensure that there are no road blocks in the growth of reinsurance industry.**

#### Clause 52

16.13 This clause seeks to substitute section 42 of the Act to regulate the appointment of insurance agents by insurers in respect of eligibility, disqualification and other aspects.

#### *Official Amendments to this clause*

**OA no. 58-** Changes of editing nature in the provisions relating to section 42 made.

**OA no. 59-**It seeks to amend Section 42 of the Insurance Act so as stipulate that no person shall act as an insurance agent for more than one life insurer and one general or health insurer.

**OA no. 60-** Changes of editing nature in the provisions relating to section 42 made.

**OA no. 61-**Insurance companies made liable for act of omission of its agents under section 42.

#### *Committee's Observations/recommendations*

16.13.1 Attention of the Committee was invited by several stakeholders to subsection 2 of section 42 of the Insurance Act, 1938, read with paragraph 52(2) of the aforesaid bill, which reads as under:

*“No person shall act as an insurance agent for more than one life insurer and one general insurer.”*

16.13.2 The Committee is given to understand that as per IRDA regulations insurance companies can appoint ‘Corporate agents’ besides ‘individual agents’. However, the word ‘person’ in the above paragraph indicates an individual person but not an individual firm or entity. Accordingly, to facilitate the appointment of corporate agents by insurance companies and to distinguish ‘individual agents’ from ‘corporate agents’ who are included in the definition of intermediary by an official amendment, there should not be any ambiguity in the interpretation of above clause. To achieve the objective of reaching out to the uninsured rural and semi-urban masses and in particular, the economically weaker sections of the society, a large number of distribution houses as well as ‘*fleet-on-street*’ sales-persons(either as referrals or sub-agents) to act on behalf of distributors, need to be appointed.

16.13.3 It was also brought to the notice of the Committee by the representatives of the private health insurance companies that presently the IRDA, in order to encourage the penetration of the health insurance products, has allowed the stand-alone health insurance companies to avail the services of agents/corporate agents of

other life and/or general insurance companies to distribute their products. They stated that if the tie-up is again restricted to one life insurance and one general insurance, the agents/corporate agents who already have a tie-up with existing general insurance company, would be forced to choose between a general insurance or a health insurance company. This would restrict the choice of the agents/corporate agents to only two of the three recognized categories of insurance segment.

**16.13.4 The Committee feels that from a standpoint of increasing insurance penetration an open architecture model would be more appropriate. Hence the Committee recommends that in Clause 52 on page 23 of the Bill lines 29 and 30 may be replaced with the following text:**

*“No person shall act as an insurance agent for more than one life insurer, one general insurer, one health insurer and one of each of the other monoline insurers in the manner specified by Regulations. Provided that IRDA shall ensure while framing Regulations that no conflict of interest is allowed to arise for any agent in representing two or more insurers for whom he may be an agent.”*

**16.13.5 Further, on the issue of insurers bearing responsibility for their agents the Committee appreciates the argument cited by the Insurance companies and the view of the Government. It, however, feels that the insurance companies cannot absolve themselves from the acts of omission and commission of the agents. It therefore recommends that a middle path could be taken by the Authority in exercising provisions related to quantum of penalty, while giving due thought to extenuating circumstances.**

16.13.6 On the concept of the ‘Multiple Corporate Agency’ (MCA), the Committee was informed that as per the existing corporate agency norms laid down by the IRDA, the criteria for the issue of licence to a company for doing exclusive insurance business is that the company should have been formed under the Companies Act, 1956 and should have paid up share capital of not less than Rs 15 lakhs. However, it was suggested that the paid up capital should be raised to Rs 10 crores for doing Insurance Business (life & non-life) as Multiple Corporate Agents of different insurance companies, as the increase in the share capital will prevent the entry of the fly-by-night corporate agents, who often disappear after collecting the premia from the customers.

16.13.7 The Committee was also apprised of the existing criteria wherein a corporate agency can sell products only for and on behalf of one life and one general insurance company. It was suggested that the existing norms may be revised and the proposed Multiple Corporate Agency may be allowed to operate simultaneously at least for ten Insurance Companies (both life and non-life), as it will facilitate the process of the fast-paced development of the business by the insurance companies across the country. It was pointed out that Corporate Agents, unlike individual agents incur huge fixed over-head expenses by maintaining a large number of branches across the country and by employing equally large number of specified persons on their pay rolls, not only for procuring life insurance business but also for helping the policy holders by providing them a large number of services.

16.13.8 **The Committee notes aforesaid suggestions and advises the regulator to examine the concept of proposed ‘Multiple Corporate Agency’(MCA) and frame appropriate guidelines in consultation with the stakeholders, especially as regards allowing an MCA to operate for more than two Insurance Companies (both life and non-life).**

16.13.9 It was also brought to the notice of the Committee by the LIC of India that an insurance company does not have any mechanism by which it can crosscheck whether the averments made by the applicant for agency are incorrect and hence feels that the insurance company should not be penalized for any misstatement by the applicant. The Agent while filling the proposal form is acting as the Agent of the Assured and thus for any mistake or misstatement committed by the Agent, the insurance company should not be held liable. The view of the government in this regard was that the appointment of agents is proposed to be done by insurance companies subject to the agents meeting the qualifications specified by IRDA. Further, under the existing legislation, IRDA is empowered to take disciplinary action against agents under section 42(4) of the Insurance Act, 1938 which is essentially to protect the policy-holders interests. With the amendment in the Bill proposing appointment of agents by the insurance companies, it is necessary to empower the Authority to penalize the companies in the event of their agents not abiding the Code of Conduct.

16.13.10 **The Committee appreciates the argument cited by the Insurance companies and the view of the Government, however it feels that the insurance companies cannot completely absolve themselves from the acts of omissions and commissions of the agents. It, therefore, recommends that the quantum of penalty on the insurance companies may be rationalized and made commensurate to the offence committed by the delinquent agents.**

#### **Clause 56**

16.14 This clause seeks to substitute section 43 of the Act to enable the insurers to maintain the records electronically.

#### ***Official Amendments to this clause***

**OA no. 64-**It seeks to amend clause 56 of the Bill so as to ensure that the record prepared by the insurer under sub-section (1), shall be maintained as long as the insurance agent is in service and for a period of five years after the cessation of appointment

#### ***Committee’s Observations/recommendations***

16.14.1 The Industry Chambers pointed out the ambiguity in the mode/mechanism by which the insurers are required to keep their records. **The Committee recommends that keeping in view the technological advances made for data storage, the record of agents may be maintained in any form, including electronic mode.**

## Clause 57

16.15 This clause seeks to omit section 44 of the Act relating to shifting of agents from one insurer to another insurer.

### *Committee's Observations/recommendations*

16.15.1 The LIC of India has stated that the Insurance Bill proposed to omit the Section 44 citing the reason that it will be taken care of by the Regulation to be framed by IRDA as per the proposed amendment to Section 40 of the Insurance Act, 1938 (Clause 48). However, contradicting the above reasoning, they further stated that in the Insurance Act, 1938; Section 44 is in the nature of an embargo on LIC of India to enter into any Agreement stopping renewal commission on premium of an Agent post the cessation of the Agency. Section 44(1) (c) contemplates that the commission of an Agent cannot be stopped if he has worked for a period of 10 years, but there is an exception that is in case where such Agent directly or indirectly procures insurance business for any other insurer in any capacity, his commission can be stopped.

16.15.2 The LIC further submitted that Section 44 has been made applicable to LIC with modification by virtue of Section 43 of the LIC Act, 1956. Deletion of Section 44 with powers to the IRDA to frame Regulations thereof would run contrary to the provision of the LIC Act, 1956 and hence they have suggested continuance with the existing provision of section 44.

16.15.3 The Government was of the view that Clause 48 of the Bill in respect of Section 40 would provide for regulations to be framed by IRDA on commissions paid and received. In view of this, it was considered necessary to omit section 44 which provided for the manner of cessation of payment of commissions or remuneration. This will be taken care of by the regulation to be framed by IRDA as per Section 40. **The Committee endorses the view of the Government that the proposed regulations being framed by the IRDA would cover the aspect of commissions paid and received by agents.**

16.15.4 **The Committee is also of the view that the proposal to do away with Section 44 of the Act, would work against the interest of a large number of agents. The Committee is therefore of the opinion that while framing the Regulations, the IRDA may give due consideration to protect the interest of LIC and it should also be ensured that no subsequent provisions run contrary to the provisions of LIC Act, 1956.**

## Clause 58

16.16 This clause seeks to substitute sections 44A and 45 of the Act to provide that no policy of life insurance shall be called in question on any ground after the period of five years. It also provides that the policy can be called in question by the insurer within the period of five years only in case of fraud.

### *Official Amendments to this clause*

**OA no. 65-** Clause 58 revised with changes of drafting nature.

**OA no. 66, 67, 68-** Policies not to be called in question after 3 years as against 5 years proposed earlier.

**OA no. 69 to 71-** Onus to disprove in case of fraud lies on the beneficiary where policy-holder is not alive and few drafting modifications

### *Committee's Observations/recommendations*

16.16.1 The LIC of India in its deposition before the Committee regarding the amendment to section 45(4) of the Bill stated that a life insurance contract is known as a 'contract of *uberrima fides*', that is, it is a contract of utmost good faith. The proposer is supposed to make all the averments and declarations which are bonafide and based on best of his knowledge. One of the questions namely, whether the appellant is entitled to a refund of the money he had paid to the respondent company was taken up in the case of *Mithoolal Nayak v. Life Insurance Corporation of India* reported in AIR 1962 Supreme Court 814, the Hon'ble Supreme Court observed that:-

“.....one of the terms of the policy was that all moneys that had been paid in consequence of the policy would belong to the company if the policy was vitiated by reason of a fraudulent suppression of material facts by the insured. We agree with the High Court that where the contract is bad on the ground of fraud, the party who has been guilty of fraud or a person who claims under him cannot ask for a refund of the money paid. It is a well-established principle that courts will not entertain an action for money had and received, where, in order to succeed; the plaintiff has to prove his own fraud. LIC was in further agreement with the High Court that in cases in which there is stipulation that by reason of a breach of warranty by one of the parties to the contract, the other party shall be discharged from the performance of his part of the contract, neither section 65 nor section 64 of the Indian Contract Act has any application.”

16.16.2 Further, IRDA also stated that once the policy is liable to be repudiated on grounds of mis-statement there cannot be refund of premium. Provision for refund of premium may encourage mis-statements and hence this proviso should be deleted. The Committee feels that merely some facts were not brought out at the time of effecting the policy by the policy-holders, does not entitle the insurer to repudiate the claim unless it was of a matter which was material to acceptance of risk and it was a deliberate attempt on the part of insured to provide wrong information or concealment of vital information. Thus, any non-disclosure or wrong disclosure which was due to ignorance or lack of awareness and not deliberate on the part of the policyholder would not entitle the insurer to repudiate a claim under the policy.

**16.16.3 The Committee is of the opinion that there is merit in the contention of both LIC and IRDA that once a policy is liable to be repudiated on grounds of mis-statement or deliberate concealment of vital facts, refund of premium cannot**



**be claimed. The Committee however feels that to protect the interests of policy holders adequate provision should be made so that there is no scope for its misuse by the insurance companies and policy holders are not victimized for minor aberrations.**

#### **Clause 76**

16.17 This clause seeks to substitute section 64F of the Act relating to composition, function and operational issues of the Life Insurance Council and the General Insurance Council to make them the self-regulatory organisations.

#### ***Committee's Observations/recommendations***

16.17.1 The Committee considered the views of various Insurance Councils, Chambers of Industries and some private insurance companies. They opined that the provision of an eminent person not connected with insurance business and appointment of three members representing insurance agents, intermediaries and policyholders may be deleted. There was also a view that the original provisions as laid out in the Insurance Act, 1938 may not be tinkered with. **The Committee is of the opinion that involvement of eminent persons not connected with the insurance business helps in bringing in outside experience besides setting up high standards of corporate governance. The Committee feels that sufficient representation has already been given to all stakeholders in the aforesaid bill and the same may be retained. The Committee recommends for inclusion of representatives of self help groups and insurance cooperative societies which are engaged in providing insurance to the vulnerable sections of the society.**

#### **Clause 86**

16.18 This clause seeks to substitute section 64UM of the Act to empower the Authority to regulate the functions, code of conduct, etc., of surveyors and loss assessors.

#### ***Official Amendments to this clause***

**OA no. 83-** It seeks to amend Section 64UM of the Insurance Act as-

“64UM. (1) Save as otherwise provided in this section, no person shall act as a surveyor or loss assessor in respect of general insurance business from the commencement of the Insurance Laws (Amendment) Act, 2014, unless he—

- (a) possesses such academic qualifications as may be specified by regulations made under this Act; and
- (b) is a member of a professional body of surveyors and loss assessors, namely, the Indian Insurance Institute of Loss Assessors and Surveyors:

Provided that in the case of a firm or company, all the partners or directors or other persons, who may be called upon to make a survey or assess a loss reported, as the case may be, shall fulfill the requirements of clauses (a) and (b).

(2) Every surveyor and loss assessor shall comply with the code of conduct in respect of his duties, responsibilities and other professional requirements, as may be specified by the regulations made under the Act;

(3) Notwithstanding anything contained in the foregoing provisions, a class or class of persons acting as a licensed surveyor or loss assessor prior to the commencement of the Insurance Laws (Amendment) Act, 2014 shall continue to act as such for such period as may be specified by regulations made under this Act:

Provided that the surveyor or loss assessor shall, within the period as may be notified by the Authority, satisfy the requirements of clause (a) and clause (b) of sub-section (1), failing which, the surveyor or loss assessor shall be automatically disqualified to act as a surveyor or loss assessor.”

### *Committee's Observations/recommendations*

16.18.1 The Indian Institute of Insurance Surveyors And Loss Assessors (IIISLA) requested for retention of sub-sections 3, 4 and 5 of Section 64UM of the Act and have suggested modifications in sub-section 2 of section 64UM, as proposed in the OA 81, in order to ensure that every independent surveyor and loss assessor shall comply with the code of conduct in respect of his duties, responsibilities and professional requirements as may be required by the regulations. They also requested for empowering the Authority to call for an Independent Survey report from any approved surveyor and also to empower the Authority to issue a direction for settling a claim on the basis of the independent report and the Insurer shall be deemed to comply with such direction. They further stated that payment of Survey fee should be paid only if a person making such survey, verification or report is an approved surveyor. It was also suggested to add a sub-clause so as to ensure that no claim shall be admitted for payment or settled without a report on the loss from a person who holds a valid Certificate of Practice from IIISLA to act as an independent surveyor and loss assessor.

16.18.2 The representatives of private sector insurance companies also mentioned that considering today's scenario *w.r.t* high cost of spare parts particularly in modern generation cars, trucks and two wheelers on the roads, increase in the Survey limit for in house survey is required. They further argued that there is no need to have licensed Surveyor and this will help in better claim service. It was also suggested that provision may be incorporated to empower the insurer to appoint independent investigator (other than the surveyor or loss assessor) for collection of documents/information and investigate the claim to confirm genuineness of claim.

16.18.3 During the course of the deposition before the Committee, on a query by the Committee, as to how these provisions were deleted, the representative of the Department of Financial Services stated that while these provisions have been removed in the Bill, they would be included in the regulations under the Act. The Committee was further apprised that the Standing Committee on Finance provided for only independent and licensed surveyors to practice and strengthen the professional body i.e. IIISLA. **The Committee endorses the recommendation of the Standing Committee on Finance which had recommended that in the interest of**

**policyholders, only licensed & independent surveyors and loss assessors should be allowed to survey claims. Further, measures need to be taken to strengthen the professional body of surveyors and loss assessors i.e. IISLA.**

**16.18.4 Besides this, the Committee recommends that the suggestions of IISLA and some of the private sector insurance companies should also be taken care of at the time of formulation of regulations by the Authority, as proposed in clause 86 of the Bill. The Committee further recommends that there is a need to promote and encourage in-house surveys especially in the context of motor vehicle insurance and suitable flexible monetary ceiling may be prescribed which should be linked to inflation. The Committee also recommends retaining of sub-section (2) of section 64UM of the Act, as suggested by IRDA. The Committee further recommends to retain the sub-section (3) to sub-section (6) and sub-section (9) with necessary modifications as suggested by IRDA.**

#### **Clause 87**

16.19 This clause seeks to substitute sections 64V and 64VA of the Act to empower the Authority to regulate valuation of the assets and procedure for calculation of solvency margin of insurers.

#### ***Committee's Observations/recommendations***

16.19.1 The Industry Chambers suggested that solvency ratio need not be specified in the Act and IRDA be empowered to make necessary guidelines around the same. Section 64 V (1) may be revised to allow the Authority to set the norms for valuation of assets for the purpose of Section 64 VA. **The Committee recommends that keeping in view the policy-holders' interests and the solvency of the insurers, this clause which seeks to empower the Authority to regulate valuation of the assets and procedure for calculation of solvency margin of insurers, needs to be retained.**

#### **Clause 91**

16.20 This clause seeks to amend section 102 of the Act to enhance the penalty for default in complying with, or act in contravention of the Act to one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

#### **Clause 92**

16.21 This clause seeks to substitute sections 103 and 104 of the Act to enhance the fine not exceeding twenty-five crore rupees and with imprisonment which may extend to ten years in case a person carries on business of insurance without obtaining a certificate of registration. It also enhances the penalty for contravention of provisions relating to investment of controlled fund or assets.

#### **Clause 93**

16.22 This clause seeks to amend section 105 of the Act to enhance the penalty not exceeding one crore rupees in case any executive of the insurer wrongfully obtains

or withholds the property under the Act.

### *Committee's Observations/recommendations*

16.22.1 As regards Clauses 91, 92 and 93, the stakeholders pointed out that the penalties proposed in the Bill were exceptionally high and therefore desired that the penalties may be moderated. The representative of the Government informed that the penalties prescribed are the maximum limits; however the imposition of penalty would be commensurate with the offence. **The Committee recommends that the penalties may commensurate with the offence committed. The Committee advocates that adequate safeguards/regulations be institutionalized by IRDA for fixation of penalties so that there is minimum scope for subjective interpretation and they do not act as a deterrent to well-meaning companies from entering the insurance sector.**

### **Clause 94**

16.23 This clause seeks to substitute sections 105B and 105C of the Act to enhance penalty in case an insurer fails to comply with the obligations for rural or social sector or third party insurance for motor vehicles to not exceeding twenty-five crore rupees. It further provides for powers of adjudication to the Authority and provides penalty for contravention where there is no separate penalty provided in the Act.

### *Official Amendments to this clause*

**OA no. 84-**Modification of drafting nature made in Section 105C of the Insurance Act.

### *Committee's Observations/recommendations*

16.23.1 The Life Insurance Council and the Industry Chambers requested for moderation of the penalties and also stated that the sum realized by way of penalties may be credited to the Solatium Fund so as to benefit the victims of uninsured vehicles. Besides, IRDA with reference to sections 105(C)(1) stated that the designation of the adjudicating officer may undergo change from time to time and hence suggested that there should be insertion of the words "or equivalent" after the words 'Joint Director'. **The Committee would like moderation of penalties wherever proposed and also feels that there is merit in IRDA's contention. The wordings "or an equivalent officer" may be added after the words 'Joint Director' as suggested in clause 94 section 105(C)(1). Similarly in all other clauses like clause 44 where an IRDA official is mentioned by designation, similar flexibility may be introduced.**

### **Clause 98**

16.24 This clause seeks to substitute section 110 of the Act to provide for appeal to the Securities and Appellate Tribunal against the decision of the Authority and omit certain redundant provisions.

### *Official Amendments to this clause*

**OA no. 86-** Replacement of the year 2008 with 2014.

**OA no. 87-** Modification of drafting nature made in Section 110 of the Insurance Act.

*Committee's Observations/recommendations*

16.24.1 The industry chambers suggested that a separate independent Insurance Appellate Tribunal be constituted as appellate authority to provide for the insurance sector. **The Committee recommends that the concern of the Industry Chambers may be examined and a suitable mode of allowing appeals be incorporated in the Bill. The Committee is of the opinion that the regulations to be drafted and adopted by IRDA, subsequent to the Bill, becoming an Act should not give unbridled and arbitrary powers to IRDA. The Committee also recommends for inclusion of a person from the insurance industry in the Securities Appellate Tribunal so as expert opinion of the industry is also taken into consideration. Accordingly, the Committee recommends that necessary modifications in the Securities and Exchange Board of India Act, 1992 may be incorporated.**

**Clause 107**

**16.25** This clause seeks to amend the General Insurance Business (Nationalisation) Act, 1972 to insert section 10A to empower the Central Government to allow public sector General Insurance Companies to raise money from the market to meet their capital requirements.

*Official Amendments to this clause*

**OA no. 98-** It seeks to amend the General Insurance Business (Nationalisation) Act, 1972 to empower the Central Government to allow public sector General Insurance Companies to raise money from the market to meet their capital requirements provided that the shareholding of the Central Government shall not be less than fifty one per cent at any time.

*Committee's Observations/recommendations*

**16.25.1** Few Members expressed their reservations on the issue of empowering the Central Government to allow public sector general insurance companies to raise money from the market to meet their capital requirements. **The Committee notes the observation but could not arrive at a unanimous view on this issue and finally agreed with the stand of the Government in this regard.**

**Clause 109**

16.26 This clause seeks to amend section 2 of the Insurance Regulatory and Development Authority Act, 1999 in order to substitute "Insurance Regulatory and Development Authority" to "Insurance Regulatory and Development Authority of India".

### *Official Amendments to this clause*

**OA no. 99**-In place of insurance agents only “Corporate agents” included in the definition of insurance intermediaries under IRDA Act, 1999.

### *Committee’s Observations/recommendations*

**16.26.1** The Committee was in agreement with the suggestion of IRDA that necessary flexibility be introduced in Clause 109 to define new insurance intermediaries in a dynamic world, as the industry progresses. The following definition of intermediary could be adopted through modification of Section 2(f) of the IRDA Act 1999 to read as follows:

*“(f) “Intermediary” or “insurance intermediary” includes insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, surveyors and loss assessors and such other entities the Authority may notify by regulations from time to time.”*

### **Enacting Formula and Clause 1**

16.27 Enacting Formula and Clause 1, defining the Short title and commencement of the Act.

**OA no. 1** – In Enacting Formula for "Fifty-ninth", substitutes "Sixty-fifth".

**OA no. 2** – Replacement of the year 2008 with 2014.

### *Committee’s Observations/recommendations*

**16.27.1** Amendments made in the enacting Formula and Clause I are of formal nature, necessitated due to passage of time.

**17.** The rest of the clauses and official amendments contained in the Bill were adopted by the Committee without any change.

### **General Recommendations**

18. Besides the provisions of the proposed Bill, the Committee desires to draw the attention of the Government on its following observation/recommendations:-

- (i) The Committee was apprised by the representatives of Insurance Brokers submitted that the Bill treats the insurance brokers as insurers and it was suggested that they be treated more like professional services firm. They also stated that until the FDI limit is increased to 51%, the Indian operation of the company cannot be consolidated and the requirement that the Indian insurance company must be an Indian owned and controlled entity would be a very challenging issue to deal with. They further suggested that at least they should have equal management rights with the joint venture partner.

**The Committee recommends that adequate regulations may be framed by IRDA to facilitate the entry of multinational insurance brokers so that they can provide an added impetus to the Indian insurance and reinsurance sector.**

- (ii) The representatives from an Insurance Co-operative raised the aspect of strengthening the micro insurance sector, which covers the poor people in the country and requested that the capital requirement may be reduced significantly to enable them to grow and serve the vulnerable sections of the society. They mentioned that the regulatory barrier of Rs 100 crores as the paid up capital requirement for entry to the life insurance sector is a huge disincentive and is an entry barrier. **The Committee feels that no cooperative has applied for registration as an insurer till date because of the huge capital requirement The Committee recommends for the reduction in the paid up capital requirement of the cooperatives to facilitate their entry into the insurance sector so that they can access the market segment which has not been accessed by the main stream large insurance companies. Besides the Committee also feels that the low operating costs with which the cooperative functions will enable them to offer affordable products for the under privileged masses and would complement the social insurance schemes.**

19. The Committee during the process of consideration of the Bill has been guided by the sole objective of providing a legal framework to protect the interest of holders of insurance policies and also to provide a level playing field for the Government regulators as well as the private and public sector insurance companies, so as to regulate, promote and ensure orderly growth of the insurance industry.

**20. The Committee recommends that the Bill, as reported by it, be passed. The Government may also take further measures, as recommended by it in this report.**

## Note of Dissent

P. Rajeeve, MP  
Prof. Ram Gopal Yadav, MP  
K.C. Tyagi, MP

We have strong opposition to the recommendations in the report of the select committee regarding the two important issues of hike in FDI cap and the disinvestment of public sector general insurance industry.

The second and third paragraph of the report is totally misleading as like as the statements of objects and reasons. The statements and objects of the bill and these paragraphs of the report has created an misleading impression that the issue of hike in cap of FDI and disinvestment in public sector general insurance companies as proposed was decided upon the basis of these reports. **The fact is that the Law commission and KPN committee refrained from making recommendation for raising the foreign equity cap. While the statements and objects of any legislation cannot be modified with any type of amendments the ministry should be more vigilant in drafting this. Hence the third and fourth paragraph should bechanged.**

The Standing Committee came to the unanimous conclusion that FDI increase is not needed and the companies can look to other options of raising capital if required (41st Report submitted on 13.12.2011). We are disappointed that this important and unanimous recommendation of the Standing committee is rejected and it is now proposed to increase the foreign equity limit to 49% both through FDI and FII routes. *Ministry of finance has failed to give satisfactory reasons for not accepting the unanimous report of the standing committee. They have only submitted the same views which had been rejected by the standing committee on finance unanimously.*

*According to the submission of the Ministry, IRDA and some private players have submitted some reasons for increasing the FDI cap. The main point is that the Insurance penetration is low in India and more FDI will help to improve the situation. But as per the reply submitted by the Ministry of finance we could not find any link between increasing FDI and increasing penetration. As per the submission the FDI in insurance sector is 3314.88 while the penetration is 4.60 in 2007. But in 2012 FDI has been increased to 7648.72 while the penetration has been decreased to 4.0 and in 2013 FDI has been again increased to 7632 but penetration is the lowest as 3.90. These data clearly indicates that there is no logic in FDI and penetration.*

Insurance penetration depends on several factors. As per the report of different agencies, the life insurance penetration in India is more than all the countries in Latin America, Eastern Europe and many industrialized nations. **The life insurance penetration in India in 2013 compared favorably with the United States at 3.2%, Canada 2.9%, Germany 3.1%, Spain 2.5%, China 1.6%, Australia 3% and New Zealand 0.9%. There cannot be any doubt that all these countries enjoy a huge advantage over India in terms of levels of income and disposable incomes. And the World average is 3.5%.**

The All India Insurance Employees Association submitted before the committee that "The General insurance industry has also done well. The penetration increased from 0.68% to 0.8% and the density increased from Rs.168 to Rs.571. The



general insurance industry has grown faster than the economy and other sectors in the services. It is also a fact that there is uneven economic development in the country. This is evident from the fact that penetration is higher in places like Delhi and industrially advanced States while it is lower in Uttar Pradesh and other economically backward areas.' While raising this point as a question to the ministry and IRDA, they failed to give satisfactory explanation for this. While the select committee is silent on this issue, the report has stated thus

“ . The Life insurance sector recorded compounded annual growth rate of 18.42% in the last 14 years whereas General Insurance Industry witnessed compounded annual growth rate of 16.62% during that period. Besides, the health insurance sector has also shown a substantial compounded annual growth rate of 33.11% during the period 2003 to 2014. The Committee understands that these growth rates may not be as per the expectations but are substantial enough to buttress the increase in insurance coverage to the ever-increasing population”.

But this fails to give a clear picture of the contribution of LIC in life Insurance sector and Public sector general insurance companies in their sector.

The real fact is LIC continues to dominate the market both in terms of premium income and number of policies. It has a market share of over 75% in premium income and 84% in number of policies during this period. The total premium income of LIC stood at Rs.236798 crore registering a growth of nearly 14 percent. It settled 99.68% of the maturity claims and 99.3% of the death claims. This claim settlement record remains unmatched in the world.

The public sector general insurance companies too performed very well. The four companies earned gross direct premium income of Rs.43292 crore during the year 2013-14. The public sector companies dominated the market with a share of 56 percent. The investments of PSGI companies stood at Rs.101707 crore. These companies together paid the government a dividend of Rs.598.66 crore for the year 2013-14 on a capital of Rs.600 crore. By these facts, it is crystal clear that the Para 16.2.3 is baseless. Hence this paragraph should be deleted from the report.

Para 16.2.2 of the report states that “The Committee notes the broad assessment in next five years in the Insurance Sector both life and non-life at an estimated amount of Rs.55,000 crores, The IRDA and ministry have reached this assessment without any scientific study. And this had been rejected by the standing committee. So it should be re drafted like”

***As per the submission of the stake holders like IRDA these estimates are arithmetic and only a general estimate. So the committee should not have accepted these vague estimates.”***

Insurance is not a capital intensive sector. The 26% FDI limit is not an entry barrier and the companies see huge potential in the Indian demography. This is the reason that around 50 joint venture companies are operating in the country both in life and non-life segments. The total capital employed by 23 private life insurance companies is Rs.25418.75 Cr out of which the foreign component is Rs.6046.91 Cr as on 31st March 2013 (IRDA Annual Report 2012-13). These 23 private companies have a Pan-India reach. They have 6759 offices as against 3526 of LIC.

Similarly, the total capital employed by private General Insurance Companies

is just Rs.5974.72 Cr, of which the FDI component is Rs.1295.28 Cr. (IRDA Annual Report 2012-13). These private companies have 1827 offices across the country. This makes it clear that 26% FDI limit is neither an entry barrier nor a constraint on expansion. It is being argued that insurance sector would need around USD 10 billion in the next few years if it has to grow and survive. This projection is totally unrealistic in the background of the fact that the foreign capital employed in the 14 years of operation is just 1.2 billion USD. It is already witnessed that with 26% FDI no efforts were made by the private players to penetrate to the rural market. Then there is no guarantee with the proposed hike in FDI that the private players will discharge their obligation.

A per the submission by the Life Insurance Council of India the insurable population is estimated at 60 crore and the number insured through individual assurances is estimated at 30 crore out of the 127 crore. Apart from this nearly 12 crore lives have been covered by LIC alone through the group insurance schemes. This makes it clear that more than 70 percent of the insurable population has been covered. This is very significant in a country where 77 % of the population is living with a daily consumption of below Rs 20. **We could not find any logical relationship with the capital employed and premium earned in Insurance sector. While the total capital and reserve of LIC is only Rs 100cr, the total premium earned as per March 2013 was Rs208000cr. But for Bajaj alliance the corresponding figure were 4844 cr and Rs 6893 cr and for Bharati AXA Rs 199cr and Rs 745cr. These clearly indicate that higher capital does not mean higher mobilization of premium income.**

The pleading that the Indian insurance companies are short of resources and hence wealthy foreign partners are required for them is totally baseless. **Most of the private insurance companies in India are subsidiaries of big flagship corporate houses like Tata, Birla, Reliance, Bajaj etc having sound financial base who are also venturing for big-ticket take-over of industrial units in foreign countries.** The argument as companies cannot raise resources from the domestic markets due to the long gestation period is baseless. The Annual Report of IRDA states that in 2012-13 life insurance companies reported a net profit of Rs.6948 Cr up from Rs.5974 Cr in 2011-12. Sixteen out of 23 private companies have reported profits. Five of them have paid dividends of Rs.1155.95 Cr to the shareholders in 2012-13. In the general insurance the profits earned by the private companies for 2012-13 amounted to Rs.679 Cr. It is expected that the profits of these companies would have further increased in the last fiscal. Therefore, the arguments that they cannot raise resources from the domestic markets through IPO or through other avenues are totally unconvincing. **The Parliamentary Standing Committee on Finance was also of the same view and had suggested that in case of need, these companies can look to domestic markets for capital requirement.**

The performance of the private companies has raised serious concerns in the country. As per the submission by **Mr. Mathur former LIC Chairman, repudiation of private companies are very high in terms of no of claims and amount of claims. In 2013-14, the repudiated no of claims in LIC is only 1.10% while 8.05% in Private Companies. Some of the Private insurers have much higher levels of repudiation as around 20% by number and 28% by amount.**

The argument that the foreign capital would bring new technology is also unrealistic. **The chairman LIC had submitted before the committee that they have**

**the best technology available in the world.** And some stake holders had raised the criticism that 85% of the life insurance business transacted by private companies with foreign partner is in the form of unit-linked policies (ULIP). Under these policies, the risk of investment is undertaken by policy holders and the solvency and capital requirement for this type of business is low. A large portion of the premium fund generated by private insurance companies is being invested in stock markets and not in infrastructure and social sector. While the total investments of LIC in Government securities and social sector stand at Rs.1069769 crore as at the end of March 2014. Its contribution to the 11th Five Year Plan amounted to Rs.704151 crore and in the first two years of the 12th Plan, it has already contributed Rs.452460 crore. No other financial institution comes anywhere close to LIC in terms of contribution to the national development. So we strongly demand that the sentence in Para 16.2.3 from *“However, the Select Committee does not find any merit in these arguments” to the last should be deleted.*

**Para 16.2.4 should be redrafted as “we could not find any valid reason to change the unanimous decision against the hike in FDI cap in Insurance sector of the standing committee on finance. The committee is of the opinion that the recent experience at the time of subprime crisis and global meltdown has made the opposition to the hike in FDI cap more relevant. Increased role of foreign capital may lead to the possibility of exposing their economy to the vulnerabilities of the global market by way of likely inheritance of unsound balance sheet of the foreign partners through joint ventures and subsidiary route flight of the capital outside the country and also endangering the interest of the policy holders. So the further hike in FDI may not be in the interest of the Indian insurance sector and economy and against the interest of the policy holders.”**

**Permitting foreign re insurers and insurance syndicates like Lloyds of London will amount to permitting 100% FDI. We strongly oppose this move.**

GIC had raised serious concerns regarding this. So we strongly express our discontent to the formulations of para 16.2.6 of the report. The proposed amendment to clause 107 of the bill actually intends to the de nationalization of the Public sector General Insurance companies in the country. The four nationalized general insurance companies are adequately capitalized. The combined share capital of these companies is Rs.600 crore as on date. These four companies have Reserve and Surplus of Rs.20524 Cr. They have a combined investment of Rs.101707 Cr. These four companies paid Rs. 598.66 Cr as dividend to the government for the year 2013-14. This financial strength suggests that they are capable of raising resources internally in case of need and this is exactly what they have been doing now. The GIC Re too with a capital of Rs.430 Cr and Reserves of Rs. 11452.08 Cr is adequately capitalized. The investments of GIC Re stand at Rs. 43247.46 Cr as at 31.3.2013. The GIC Re paid a dividend of Rs.449 Cr to the government for the year 2013-14. Therefore, there is no need to take the disinvestment route to raise resources for the business needs.

**Considering all these aspects, it becomes clear that the proposed enabling provision by amending the GIBNA is made only to invest the shares of the profitable and important companies in the public sector. This is neither in the interests of the public sector insurance industry nor the Indian economy. Rather than this measure, the government should look to consolidate the public sector general insurance industry on the lines suggested by the Parliamentary**

**Committee on Public Undertakings. We strongly see no reason for this amendment and therefore record our dissent to the proposed amendment**

*So we demand to add a new Para as ' the committee feels that sub section 1(1) of sec 6A which allows the insurance companies to raise various types of capital from the market like debentures, bonds etc. The nationalized general insurance companies would also be allowed to raise such tier 11 capital if required. So the clause 107 of the bill will only open a space for de nationalization. So the committee is of the opinion that the clause 107 of the bill should be deleted.'*

**In the light of this we reject the majority recommendations of this select committee and submitting this note of dissent insisting the amendments we have suggested above be incorporated in the report. We reiterate the unanimous recommendation of the standing committee on finance in respect of hiking FDI cap be endorsed by the select committee. This would mean that this select committee rejects the present draft of the proposed legislation.**

sd/-  
**P. Rajeeve, MP**

sd/-  
**Prof. Ram Gopal Yadav, MP**

sd/-  
**K.C. Tyagi, MP**

**Note of Dissent**

**Derek O'Brien, MP**

Having examined the submissions of all stakeholders, the Ministry of Finance and the contents of this report in great detail, I find myself unable to agree with the recommendation of the Select Committee on the issue of foreign equity participation in the insurance sector. I feel obliged to place my dissent on record.

Section 2(7A)(b) of the Insurance Act 1938 provides for the foreign joint venture partner in an Indian Insurance Company to hold up to 26% equity stake. One of the principal objectives of the Amendment Bill is to raise foreign equity participation in Indian insurance companies from the existing level of 26% to 49%.

The Select Committee has noted that enhanced foreign equity will help in expansion of insurance coverage, comprehensive and better portfolio management, enable growth of the pension sector and potentially enable transfer of technical knowhow. It was with these very assurances that the insurance sector was liberalized in 1999.

This report duly acknowledges that the number of insurance companies has increased from 6 in the year 2000 to 53 in the year 2014. It also attributes the strong growth rates witnessed in the life and general insurance sector to 26% Foreign Direct Investment. But the number of insurance companies or their growth rates tells us nothing about what we have been able to achieve in terms of providing social security to the masses. In this regard, this report has made a few telling omissions.

In the fourteen years since liberalization of the insurance sector, insurance penetration has improved by hardly 1%, from 2.71% in 2001 to 3.9% in 2013. Insurance penetration has in fact been falling steadily from the year 2009. The Ministry of Finance has admitted to us that there is no direct correlation between FDI and insurance penetration. The report of this Committee has also omitted to note that since the year 2000, only Rs 7,818 crores has come in as FDI in the insurance sector. Life Insurance Corporation's contribution of dividend to the government in the last year alone was Rs 1400 crores. Over a ten year period, this figure would stand between Rs 10-14,000 crores.

The Bill in its current form creates no impetus for increased foreign investments in the insurance sector to be channeled towards improving insurance coverage or social security for the poor. It is quite possible that a higher FDI cap will only result in Indian entities liquidating their stake, at several times their original investment, without any fresh investments coming in.

Witnesses before this Committee have pointed out that over 65% of the total funds invested by private insurance companies are parked in Unit Linked Insurance Plans (ULIPs). In comparison, only 8% of LIC's investments are in ULIPs. About 80% of the life insurance policies sold by private insurers are unit linked, implying that the return on investment is closely tied to the performance of stock markets. Such policies are hardly appropriate for the average Indian.

In the year 2013-14, LIC enjoyed a 75% market share of the total first premium earnings mobilised by all the insurers in the life insurance business, amounting to Rs.90,000 crore. For the same period, LIC had a market share of more than 84 % of all the life insurance policies sold in India.

This implies that the average ticket of the policies it sold was smaller than those of its private sector rivals. The average annual premium for policies issued by private insurers is about Rs 60,000 while the average annual premium for policies sold by LIC is Rs 9000. It is beyond doubt that the public sector has been more instrumental and effective in widening the reach of life insurance in the country.

A contract of insurance is a long-term contract. Unlike other products, an insurance policy yields no immediate tangible benefits to the buyer. The real test of an insurance policy takes place only when a claim is made on the policy. Thus, the track record of the insurer is perhaps more critical for a prospective buyer, than just the price of the policy. LIC settles 99.86% of its claims, where the private sector settles only 80%. LIC has a lapsation ratio of only 5%, compared to a 42-75% lapsation ratio of private insurers.

While I do acknowledge the capital requirements of insurance companies, I would like to express a strong reservation against FDI being regarded the best alternative. Foreign Direct Investment is not the panacea for all our problems. The Standing Committee had noted that the capital requirement of Rs 60-66,000 crores as estimated by IRDA was only a *general estimate and not very accurate*.

The IRDA has presented before us a capital requirement of Rs 44500 crores for the next 5 years. The Ministry of Finance informed the Select Committee that this estimated was arrived at by assuming a GDP growth rate of 7% per annum and life insurance penetration of 6%, as against the current life insurance penetration of 3.17%. Where insurance penetration has improved by only 1% in the last fifteen years, an increase of 3% in the next five years seems hardly realistic.

Witnesses before this committee have also contested the fact that Indian insurance ventures are starved of capital. We were presented with data, which showed that there is no clear relationship between the capital base and the extent of the business, implying that capital infusion is not a prerequisite for expansion of business.

The Standing Committee had in 2011 noted that the only reason the Indian insurance sector had remained insulated from the global financial crisis of 2008 was because the foreign shareholding was capped at 26%. The Committee had also noted the ability of public sector general insurers to raise the capital required as projected by IRDA. The Standing Committee had concluded that raising the FDI cap was not in the interest of the Indian Insurance industry, nor the common man, who does not stand to gain in terms of social security.

On the basis of the evidence placed before us, I cannot help but agree with the conclusions arrived at by the Standing Committee:–

***“Also, the public sector general insurers have expressed confidence in raising the capital projected as required by IRDA, and as per the Ministry’s submission to the Committee, the double digit growth of the Indian insurance sector could be maintained***

*during the global financial crisis of 2008, because 74% of the paid-up equity capital was held by Indian promoters and only 26% by the foreign promoters, which reduced the demands on the foreign promoters.*

....  
*The Committee would, therefore, consider it prudent to seriously pursue the alternate route of tapping the market for raising the capital required for the sustenance and growth of the sector. Formulating the rules / regulations for enabling the companies to tap the domestic market, combined with the other capital raising options proposed to be made available in terms of the amendment proposals of the Bill, would, in the opinion of the Committee help in meeting the growth needs of the sector.”*

The Bill before us has made an additional crucial departure from its previous draft by allowing for foreign institutional investment (FII) in the insurance sector. Portfolio investments can be liquidated and repatriated very quickly. They can cause serious instability in the economy. Increased FDI and FII will expose the Indian Insurance sector to vagaries in the global financial climate without any commensurate benefit to the people of India.

As learnt from our experience over the last decade and half, it is unlikely that increased foreign participation will improve insurance penetration and density. Along with foreign capital, we are likely to import practices that could cause serious loss to the Indian middle classes by inviting them to invest in high-risk plans.

The implication of inviting profit-seeking foreign players on the financial stability of the country has been grossly underplayed, particularly when these players are known to adopt practices that have had adverse consequences in countries such as the United States.

In the aftermath of the financial crisis of 2008, the world’s biggest insurer – AIG – was bailed out for \$170 billion. These firms had taken huge bets on exotic financial arrangements and were censured for extensive and complex reinsurance arrangements, excessive underpricing, reserve problems, false reports, reckless management, gross incompetence, fraudulent activity and self-dealing. When a lot of their assets turned worthless, they were bailed out with taxpayer money. It is firms like these which are now being offered a foothold in the Indian market.

Through much of post independence India, the risk of an insurance company failing has been substantially low because of two factors: regulation, especially of the investments undertaken by insurance companies, and public ownership, which ensured consistent efforts towards improving coverage and density. The Insurance Bill is diluting both these strongholds.

In light of the above, I find myself opposed to this Committee’s recommendation of increasing the FDI limit and allowing for portfolio investments. I believe that an increase in FDI is neither necessary nor expedient. Therefore, I strongly suggest that the limit for foreign investment in insurance be retained at 26% and that portfolio investments should under no circumstances be permitted.

Sd/-  
**Derek O’Brien, MP**

AS PER RECOMMENDATIONS OF THE HON'BLE SELECT COMMITTEE OF THE  
RAJYA SABHA

THE UNDERLINED PORTION INDICATES THE INSERTIONS MADE TO THE BILL  
AND (\*\*\*) MARK INDICATES THE OMISSIONS.

	<b>THE INSURANCE LAWS (AMENDMENT) BILL, 2014</b> A BILL	
	<i>further to amend the Insurance Act, 1938, the General Insurance Business (Nationalisation) Act, 1972 and the Insurance Regulatory and Development Authority Act, 1999.</i>	
	BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—	
	CHAPTER I PRELIMINARY	
	<p><b>1.</b> (1) This Act may be called the Insurance Laws (Amendment) Act, 2014.</p> <p>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:</p> <p>Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.</p>	Short title and commencement.
	CHAPTER II AMENDMENTS TO THE INSURANCE ACT, 1938	



<p>4 of 1938.</p> <p>7 of 1913. 18 of 2013.</p> <p>1 of 1956. 18 of 2013.</p>	<p><b>2.</b> In the Insurance Act, 1938 (hereafter in this Chapter referred to as the Insurance Act), throughout the Act,—</p> <p><u>(a) for the words and figures “the Indian Companies Act,1913”, wherever they occur, the words and figures “the Companies Act,2013” shall be substituted;</u></p> <p><u>(b) for the words and figures “the Companies Act,1956”, wherever they occur, the words and figures “the Companies Act,2013” shall be substituted’.</u></p>	<p>Substitution of references to certain expressions by certain other expressions.</p>
<p>35 of 2006.</p> <p>41 of 1999.</p> <p>18 of 2013.</p>	<p><b>3.</b> In section 2 of the Insurance Act,—</p> <p>(i) for clauses (I) and (IA), the following clauses shall be substituted, namely:—</p> <p>‘(I) “actuary” means <u>an</u> actuary as defined in clause (a) of sub-section (I) of section 2 of the Actuaries Act, 2006;</p> <p>(IA) “Authority” means the Insurance Regulatory and Development Authority of India established under sub-section (I) of section 3 of the Insurance Regulatory and Development Authority Act, 1999;’;</p> <p>(ii) clause (5A) shall be omitted;</p> <p>(iii) after clause (6B), the following clause shall be inserted, namely:—</p> <p>‘(6C) “health insurance business” means the effecting of contracts which provide for sickness benefits or medical, surgical or hospital expense benefits, <u>whether in-patient or out-patient travel cover and personal accident cover;</u>’;</p> <p>(iv) for clause (7A), the following clause shall be substituted, namely:—</p> <p>‘(7A) “Indian insurance company” means any insurer, being a company which is limited by shares, and,—</p> <p>(a) which is formed and registered under the Companies Act, <u>2013</u> as a public company or is converted into such a company within one year of the commencement of the Insurance Laws (Amendment) Act, <u>2014</u>;</p> <p><u>“(b) in which the aggregate holdings of equity shares by foreign investors, including portfolio investors, do not exceed forty-nine per cent. of the paid up equity capital of such Indian insurance company, which is Indian owned and controlled, in such manner as may be prescribed.</u></p> <p><u>Explanation.—For the purposes of this sub-clause, the expression “control” shall include the right to appoint a majority of the</u></p>	<p>Amendment of section 2.</p>

	<p><u>directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.”;</u></p> <p>(c) whose sole purpose is to carry on life insurance business or general insurance business or re-insurance business or health insurance business.</p> <p>(***)</p> <p><u>(v) clause (8) shall be omitted;</u></p> <p>(vi) in clause (8A),—</p> <p>(I) for sub-clause (b), the following sub-clause shall be substituted, namely:—</p> <p>“(b) having a minimum paid-up capital of rupees one hundred crores in case of life insurance <u>business</u>, (***) general insurance business <u>or</u> (***) health insurance business;”;</p> <p>(II) in sub-clause (d), after the words “general insurance business”, the words “or health insurance business” shall be inserted;</p>	
	<p>(vii) for clause (9), the following clause shall be substituted, namely:—</p> <p>“(9) “insurer” means —</p> <p>(a) an Indian Insurance Company, or</p> <p>(b) a statutory body established by an Act of Parliament to carry on insurance business, or</p> <p>(c) an insurance co-operative society, or</p> <p>(d) a foreign company engaged in re-insurance business through a branch established in India.</p> <p><b>Explanation.— For the purposes of this sub-clause, the expression “foreign company” shall mean a company or body established or incorporated under a law of any country outside India and includes Lloyd’s established under the Lloyd’s Act, 1871 (United Kingdom) or any of its Members;”;</b></p> <p>(viii) in clause (10), the words and figures “licensed under section 42” shall be omitted;</p> <p>(ix) in clause (11), in sub-clause (c), for the words “annuities payable out of any fund”, the words “benefit payable out of any fund” shall be substituted;</p>	

<p>7 of 1913. 18 of 2013.</p> <p>41 of 1999.</p> <p>15 of 1992.</p>	<p>(x) clauses (12), (13) and (15) shall be omitted;</p> <p>(xi) in clause (16), for the words, brackets, figures and letter “clauses (13) and (13A) of section 2 of the Indian Companies Act, 1913”, the words, brackets and figures “clause (68) and clause (72) of section 2 of the Companies Act, 2013” shall be substituted;</p> <p>(xii) after clause (16), the following clauses shall be inserted, namely:—</p> <p>“(16A) “regulations” means the regulations framed by the Insurance Regulatory and Development Authority of India established under the Insurance Regulatory and Development Authority Act, 1999;</p> <p>(16B) “re-insurance” means the insurance of (***) part of one insurer’s risk by another insurer who accepts the risk for a mutually acceptable premium;</p> <p>(16C) “Securities Appellate Tribunal” means the Securities Appellate Tribunal established under section 15K of the Securities and Exchange Board of India Act, 1992;”;</p> <p>(xiii) clause (17) shall be omitted.</p>	
	<p>4. (***)</p>	<p>Omission of clause 4.</p>
	<p>5. (***)</p>	<p>Omission of clause 5.</p>
	<p>6. After section 2CA of the Insurance Act as so omitted, the following section shall be inserted, namely :—</p>	<p>Insertion of new section 2CB.</p>
	<p>“2CB. (1) No person shall take out or renew any policy of insurance in respect of any property in India (***) or any ship or other vessel or aircraft registered in India with an insurer whose principal place of business is outside India save with the prior permission of the Authority.</p> <p>(2) If any person contravenes the provision of sub-section (1), he shall be liable to a penalty which may extend to five crore rupees.”.</p>	<p>Properties in India not to be insured with foreign insurers except with the permission of Authority.</p>
	<p>7. Section 2E of the Insurance Act shall be omitted.</p>	<p>Omission of section 2E.</p>
	<p>8. In section 3 of the Insurance Act,—</p> <p>(i) for sub-section (2), the following sub-section shall be substituted, namely:—</p> <p>“(2) Every application for registration shall be made in such manner and shall be accompanied by such documents as may be</p>	<p>Amendment of section 3.</p>

specified by regulations.”;

(ii) in sub-section (2A), in clause (d), for the figures, letter and word “5, 31A and 32”, the figures, word and letter “5 and 31A” shall be substituted;

(iii) for sub-section (2C), the following sub-section shall be substituted, namely:—

“(2C) Any person aggrieved by the decision of the Authority refusing registration may, within thirty days from the date on which a copy of the decision is received by him, appeal to the Securities Appellate Tribunal.”;

(iv) sub-section (2D) shall be omitted;

(v) for sub-sections (3), (4), (5) and (5A), the following sub-sections shall be substituted, namely:—

“(3) In the case of any insurer having joint venture with a person having its principal place of business domiciled outside India **or any insurer as defined in sub-clause (d) of clause (9) of section 2**, the Authority may withhold registration (\*\*\*) already made if it is satisfied that in the country in which such person has been debarred by law or practice of that country to carry on insurance business.

(4) The Authority may suspend or cancel the registration of an insurer either wholly or in so far as it relates to a particular class of insurance business, as the case may be,—

(a) if the insurer fails, at any time, to comply with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities, or

(b) if the insurer is in liquidation or is adjudged as an insolvent, or

(c) if the business or a class of the business of the insurer has been transferred to any person or has been transferred to or amalgamated with the business of any other insurer without the approval of the Authority, or

(d) if the insurer makes default in complying with, or acts in contravention of, any requirement of this Act or of any rule or any regulation or order made or, any direction issued thereunder, or

(e) if the Authority has reason to believe that any claim upon the insurer arising in India under any policy of insurance remains unpaid for three months after final judgment in regular court of law, or

<p>41 of 1999.</p> <p>18 of 2013. 57 of 1972. 42 of 1999. 15 of 2002.</p> <p>39 of 2002.</p>	<p>(f) if the insurer carries on any business other than insurance business or any prescribed business, or</p> <p>(g) if the insurer makes a default in complying with any direction issued or order made, as the case may be, by the Authority under the Insurance Regulatory and Development Authority Act, 1999, or</p> <p>(h) if the insurer makes a default in complying with, or acts in contravention of, any requirement of the Companies Act, <u>2013</u> or the General Insurance Business (Nationalisation) Act, 1972 or the Foreign Exchange Management Act, 1999 or the Prevention of Money Laundering Act, 2002, or</p> <p>(i) if the insurer fails to pay the annual fee required under section 3A, or</p> <p>(j) if the insurer is convicted for an offence under any law for the time being in force, or</p> <p>(k) if the insurer being a co-operative society set up under the relevant State laws or, as the case may be, the Multi-State Co-operative Societies Act, 2002, contravenes the provisions of law as may be applicable to the insurer.</p> <p>(5) When the Authority suspends or cancels any registration under clause (a), clause (d), clause (e) or clause (f), <u>clause (g) or clause (i)</u> of sub-section (4), it shall give notice in writing to the insurer of its decision, and the decision shall take effect on such date as it may specify in that behalf in the notice, such date not being less than one month nor more than two months from the date of the receipt of the notice in the ordinary course of transmission.</p> <p>(5A) When the Authority suspends or cancels any registration under clauses (b), (c), (***) (j) or (k) of sub-section (4), the suspension or cancellation, as the case may be, shall take effect on the date on which notice of the order of suspension or cancellation is served on the insurer.”.</p> <p>(vi) for sub-section (5C), the following sub-section shall be substituted, namely:—</p> <p>“(5C) Where a registration is suspended or cancelled under clause (a), clause (d), clause (e), clause (f), clause (g) or <u>clause (i)</u> of sub-section (4), the Authority may at its discretion revive the registration, if the insurer within six months from the date on which the suspension or cancellation took effect complies with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities or has had an application under sub-section (4) of section 3A accepted, or satisfies the Authority that no claim upon him such as is referred to in clause (e) of sub-section (4) remains unpaid or that he has</p>	
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41 of 1999.	complied with any requirement of this Act or the Insurance Regulatory and Development Authority Act, 1999, or of any rule or any regulation, or any order made thereunder or any direction issued under those Acts, or that he has ceased to carry on any business other than insurance business or any prescribed business, as the case may be, and complies with any directions which may be given to him by the Authority.”.	
	<b>9.</b> For section 3A of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 3A.
	“3A. (1) An insurer who has been granted a certificate of registration under section 3 shall pay such annual fee to the Authority in such manner as may be specified by the regulations.  (2) Any failure to deposit the annual fee shall render the certificate of registration liable to be cancelled.”.	Payment of annual fee by insurer.
	<b>10.</b> For section 4 of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 4.
	“4. The insurer shall pay or undertake to pay on any policy of life insurance or a group policy issued, a minimum annuity and other benefits as may be determined by regulations excluding any profit or bonus provided that this shall not prevent an insurer from converting any policy into a paid-up policy of any value or payment of surrender value of any amount.”.	Minimum limits for annuities and other benefits secured by policies of life insurance.
	<b>11.</b> In section 5 of the Insurance Act,—  (i) in sub-section (2), both the provisos shall be omitted;  (ii) sub-section (3) shall be omitted.	Amendment of section 5.
	<b>12.</b> For section 6 of the Insurance Act, the following section shall be substituted, namely :—	Substitution of new section for section 6.
41 of 1999.	“6. (1) No insurer not being an insurer as defined in sub-clause (d) of clause (9) of section 2, carrying on the business of life insurance, general insurance, health insurance or re-insurance in India or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall be registered unless he has,—  (i) a paid-up equity capital of rupees one hundred crore, in case of a person carrying on the business of life insurance or general insurance; or  (ii) a paid-up equity capital of rupees <b>one hundred</b> crore, in case of a person carrying on exclusively the business of health insurance; or	Requirement as to capital.

<p>18 of 2013. 15 of 1992.</p>	<p>(iii) a paid-up equity capital of rupees two hundred crore, in case of a person carrying on exclusively the business as a re-insurer:</p> <p style="text-align: center;"><u>"Provided that the insurer, may enhance the paid up equity capital, as provided in this section in accordance with the provisions of the Companies Act, 2013, the Securities Exchange Board of India Act, 1992 and the rules, regulations or directions issued thereunder or any other law for the time being in force:</u></p> <p style="text-align: center;"><u>Provided further that in determining the paid-up equity capital, any preliminary expenses incurred in the formation and registration of any insurer as may be specified by regulations made under this Act, shall be excluded."</u></p> <p>(2) No insurer, as defined in sub-clause (d) of clause (9) of section 2, shall be registered unless he has net owned funds of not less than rupees five thousand crore."</p>	
<p>47 of 1950.</p>	<p><b>13.</b> In section 6A of the Insurance Act,—</p> <p>(i) for sub-section (1), the following sub-section shall be substituted, namely:—</p> <p>"(1) No public company limited by shares having its registered office in India, shall carry on life insurance business or general insurance business or health insurance business or re-insurance business, unless it satisfies the following conditions, namely:—</p> <p>(i) that the capital of the company shall consist of equity shares each having a single face value and such other form of capital, as may be specified by regulations;</p> <p>(ii) that the voting rights of shareholders are restricted to equity shares;</p> <p>(iii) that, except during any period not exceeding one year allowed by the company for payment of calls on shares, the paid-up amount is the same for all shares, whether existing or new:</p> <p style="text-align: center;">Provided that the conditions specified in this sub-section shall not apply to a public company which has, before the commencement of the Insurance (Amendment) Act, 1950, issued any shares other than ordinary shares each of which has a single face value or any shares, the paid-up amount whereof is not the same for all of the them for a period of three years from such commencement."</p>	<p>Amendment of section 6A.</p>
	<p>(ii) in sub-section (2), after the words "paid-up amount of the", the word "equity" shall be inserted;</p> <p>(iii) for sub-section (4), the following sub-section shall be substituted, namely:—</p> <p>"(4) A public company as aforesaid which carries on life</p>	

18 of 2013.	<p>insurance business, general and health insurance business and re-insurance business—</p> <p>(a) shall, in addition to the register of members maintained under the Companies Act, <u>2013</u>, maintain a register of shares in which the name, occupation and address of the beneficial owner of each share shall be entered including any change of beneficial owner declared to it within fourteen days from the receipt of such declaration;</p> <p>(b) shall not register any transfer of its shares—</p>	
18 of 2013.	<p>(i) unless, in addition to compliance being made with the provisions of section <u>56</u> of the Companies Act, <u>2013</u>, the transferee furnishes a declaration in the prescribed form as to whether he proposes to hold the shares for his own benefit or as a nominee, whether jointly or severally, on behalf of others and in the latter case giving the name, occupation and address of the beneficial owner or owners, and the extent of the beneficial interest of each;</p> <p>(ii) where, after the transfer, the total paid-up holding of the transferee in the shares of the company is likely to exceed five per cent. of its paid-up capital unless the previous approval of the Authority has been obtained to the transfer;</p> <p>(iii) where, the nominal value of the shares intended to be transferred by any individual, firm, group, constituents of a group, or body corporate under the same management, jointly or severally exceeds one per cent. of the paid-up equity capital of the insurer, unless the previous approval of the Authority has been obtained for the transfer.</p> <p><i>Explanation.</i>—For the purposes of this sub-clause, the expressions "group" and "same management" shall have the meanings respectively assigned to them in the Competition Act, 2002."</p>	
12 of 2003.	<p>(iv) sub-sections <u>(3)</u>, <u>(6)</u>, (7), (8), (9) and (10) shall be omitted;</p> <p>(v) in sub-section (11), the words, brackets and figures "except those of sub-sections (7), (8) and (9)" shall be omitted;</p> <p>(vi) in sub-section (11), clause (ii) shall be omitted; and</p> <p>(vii) in the <i>Explanation</i>, in sub-clause (c) of clause (ii), the words "managing agent" shall be omitted.</p>	
	<b>14.</b> Section 6AA of the Insurance Act shall be omitted.	Omission of section 6AA.
	<b>15.</b> In section 6B of the Insurance Act,—  (i) in sub-section (1),—	Amendment of section 6B.



	<p>(a) for the words “life insurance business”, the words “life or general or health insurance or re-insurance business” shall be substituted; and</p> <p>(b) for the words “Central Government”, the word “Authority” shall be substituted;</p> <p><u>(ii) in sub-sections (2) and (3), for the words "High Court", the words “the Securities Appellate Tribunal” shall be substituted.”.</u></p> <p>(iii) sub-section (4) shall be omitted.</p>	
	<b>16.</b> Sections 6C, 7, 8 and 9 of the Insurance Act shall be omitted.	Omission of section 6C, 7, 8 and 9.
	<p><b>17.</b> In section 10 of the Insurance Act,—</p> <p>(i) in sub-section (1), for the words “prescribed in this behalf”, the words “specified by the regulations” shall be substituted;</p> <p><u>(ii) in sub-section (2),—</u></p> <p style="padding-left: 40px;"><u>(a) the words, brackets and figures, “after the expiry of six months from the commencement of the Insurance (Amendment) Act, 1946”, shall be omitted;</u></p> <p style="padding-left: 40px;"><u>(b) the words “under the law of the insurer’s country” occurring at the end, shall be omitted.</u></p> <p>(iii) after sub-section (2A), the following sub-section shall be inserted, namely:—</p> <p>“(2AA) Where the insurer carries on the business of (***) insurance, all receipts due in respect of each sub-clause of such insurance business shall be carried to and shall form a separate fund, the assets of which shall be kept separate and distinct from other assets of the insurer and every insurer shall submit to the Authority the necessary details of such funds as may be required by the Authority from time to time and such funds shall not be applied directly or indirectly save as expressly permitted under this Act or regulations made thereunder.”.</p>	Amendment of section 10.
	<b>18.</b> For section 11 of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 11.
	“11. (1) Every insurer, on or after the commencement of the Insurance Laws (Amendment) Act, 2014, in respect of insurance business transacted by him and in respect of his shareholders’ funds, shall, at the expiration of each financial year, prepare with reference to that year, balance-sheet, a profit and loss account, a separate account of receipts and payments, a revenue account in accordance with the regulations as may be specified.	Accounts and balance-sheet.

18 of 2013.	<p>(2) Every insurer shall keep separate accounts relating to funds of shareholders and policy-holders.</p> <p>(3) Unless the insurer is a company as defined in clause (20) of section 2 of the Companies Act, 2013, the accounts and statements referred to in sub-section (1) shall be signed by the insurer, or in the case of a company by the chairman, if any, and two directors and the principal officer of the company, or in case of an insurance cooperative society by the person in-charge of the society and shall be accompanied by a statement containing the names, descriptions and occupations of, and the directorships held by, the persons in charge of the management of the business during the period to which such accounts and statements refer and by a report on the affairs of the business during that period.”.</p>	
	<b>19.</b> For section 12 of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 12.
18 of 2013.  18 of 2013.	<p>“12. The balance-sheet, profit and loss account, revenue account and profit and loss appropriation account of every insurer, in respect of all insurance business transacted by him, shall, unless they are subject to audit under the Companies Act, 2013, be audited annually by an auditor, and the auditor shall in the audit of all such accounts have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section <u>147</u> of the Companies Act, 2013.”.</p>	Audit.
41 of 1999.	<p><b>20.</b> In section 13 of the Insurance Act,—</p> <p>(i) for sub-section (1), the following sub-section shall be substituted, namely:—</p> <p>“(1) Every insurer carrying on life insurance business shall, once at least every year cause an investigation to be made by an actuary into the financial condition of the life insurance business carried on by him, including a valuation of his liabilities in respect thereto and shall cause an abstract of the report of such actuary to be made in accordance with the regulations:</p> <p style="padding-left: 40px;">Provided that the Authority may, having regard to the circumstances of any particular insurer, allow him to have the investigation made as at a date not later than two years from the date as at which the previous investigation was made:</p> <p style="padding-left: 40px;">Provided further that every insurer, on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall cause an abstract of the report of the actuary to be made <u>in such manner as may be specified</u> by the regulations.”;</p> <p style="text-align: center;">(***)</p>	Amendment of section 13.

	<p>(ii) for sub-section (4), the following sub-section shall be substituted, namely:—</p> <p>“(4) There shall be appended to every such abstract a statement prepared in such form and in such manner as may be specified by the regulations:</p> <p style="padding-left: 40px;">Provided that, if the investigation referred to in sub-sections (1) and (2) is made annually by any insurer, the statement need not be appended every year but shall be appended at least once in every three years.”;</p> <p>(iii) for sub-section (6), the following sub-section shall be substituted, namely:—</p> <p>“(6) The provisions of this section relating to the life insurance business shall apply also to any such sub-class of insurance business included in the class “Miscellaneous Insurance” and the Authority may authorise such modifications and variations of regulations as may be necessary to facilitate their application to any such sub-class of insurance business:</p> <p style="padding-left: 40px;">Provided that, if the Authority is satisfied that the number and amount of the transactions carried out by an insurer in any such sub-class of insurance business is so small as to render periodic investigation and valuation unnecessary, it may exempt that insurer from the operation of this sub-section in respect of that sub-class of insurance business.”.</p>	
	<p><b>21.</b> For section 14 of the Insurance Act, the following section shall be substituted, namely:—</p>	<p>Substitution of new section for section 14.</p>
	<p>“14(1). Every insurer, in respect of all business transacted by him, shall maintain—</p> <p>(a) a record of policies, in which shall be entered, in respect of every policy issued by the insurer, the name and address of the policy-holder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice, and</p> <p>(b) a record of claims, every claim made together with the date of the claim, the name and address of the claimant and the date on which the claim was discharged, or, in the case of a claim which is rejected, the date of rejection and the grounds thereof.</p> <p><u>(c) a record of policies and claims in accordance with clauses (a) and (b) may be maintained in any such form, including electronic mode, as may be specified by regulations made under this Act (***)</u>.</p> <p>(2) Every insurer shall, in respect of all business transacted by</p>	<p>Record of policies and claims.</p>

	<u>him, endeavour to issue policies above a specified threshold in terms of sum assured and premium in electronic form, in the manner and form to be specified by regulations made under this Act."</u>	
	<b>22.</b> For section 15 of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 15.
	<p>“15. (1) The audited accounts and statements referred to in section 11 or subsection (5) of section 13 and the abstract and statement referred to in section 13 shall be printed, and four copies thereof shall be furnished as returns to the Authority within six months from the end of the period to which they refer.</p> <p>(2) Of the four copies so furnished one shall be signed in the case of a company by the chairman and two directors and by the principal officer of the company and, if the company has a managing director by that managing director and one shall be signed by the auditor who made the audit or the actuary who made the valuation, as the case may be.”.</p>	Submission of returns.
	<b>23.</b> Section 16 of the Insurance Act shall be omitted.	Omission of section 16.
	<b>24.</b> Sections 17 and 17A of the Insurance Act shall be omitted.	Omission of sections 17 and 17A.
	<p><b>25.</b> In section 20 of the Insurance Act,—</p> <p>(i) for sub-section (1), the following sub-section shall be substituted, namely:—</p> <p>“(1) Every return furnished to the Authority or certified copy thereof shall be kept by the Authority and shall be open to inspection; and any person may procure a copy of any such return, or of any part thereof, on payment of such fee as may be specified by regulations.”;</p> <p>(ii) in sub-section (2), the words <u>and figures</u> “or section 16” shall be omitted;</p> <p>(iii) in sub-section (3), for the words “one rupee”, the words “such fee as may be specified by regulations” shall be substituted.</p>	Amendment of section 20.
	<p><b>26.</b> In section 21 of the Insurance Act,—</p> <p>(i) in clause (d) of sub-section (1), the words and figures “or section 16” shall be omitted;</p> <p>(ii) for sub-section (2), the following sub-section shall be substituted, namely:—</p> <p>“(2) The Securities Appellate Tribunal may, on the application of</p>	Amendment of section 21.

	<p>an insurer and after hearing the Authority, cancel any order made by the Authority under clause (d) of sub-section (1) or may direct the acceptance of such a return which the Authority has declined to accept, if the insurer satisfies the Tribunal that the action of the Authority was in the circumstances unreasonable:</p> <p>Provided that no application under this sub-section shall be entertained unless it is made before the expiration of four months from the date when the Authority made the order or declined to accept the return.”.</p>	
	<p><b>27.</b> In section 22 of the Insurance Act,—</p> <p>(i) in sub-section (1), the words, <u>brackets, letter and figures</u> “or an abstract of a valuation report furnished under clause (c) of sub-section (2) of section 16” shall be omitted;</p> <p>(ii) in sub-section (2), the words, <u>brackets and figures</u> “or, as the case may be, of sub-section (2) of section 16” shall be omitted.</p>	Amendment of section 22.
	<p><b>28.</b> For sections 27, 27A, 27B, 27C and 27D of the Insurance Act, the following sections shall be substituted, namely:—</p>	Substitution of new sections for sections 27, 27A, 27B, 27C and 27D.
	<p>“27. (1) Every insurer shall invest and at all times keep invested assets equivalent to not less than the sum of —</p> <p>(a) the amount of his liabilities to holders of life insurance policies in India on account of matured claims, and</p> <p>(b) the amount required to meet the liability on policies of life insurance maturing for payment in India,</p> <p>less—</p> <p>(i) the amount of premiums which have fallen due to the insurer on such policies but have not been paid and the days of grace for payment of which have not expired, and</p> <p>(ii) any amount due to the insurer for loans granted on and within the surrender values of policies of life insurance maturing for payment in India issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability in the following manner, namely,—</p> <p style="padding-left: 40px;">(a) twenty-five per cent. of the said sum in Government securities, a further sum equal to not less than twenty-five per cent. of the said sum in Government securities or other approved securities; and</p> <p style="padding-left: 40px;">(b) the balance in any of the approved investments,</p>	Investment of assets.

as may be specified in the regulations subject to the limitations, conditions and restrictions specified therein.

(2) In the case of an insurer carrying on general insurance business, twenty per cent. of the assets in Government Securities, a further sum equal to not less than ten per cent. of the assets in Government Securities or other approved securities and the balance in any other investment in accordance with the regulations of the Authority and subject to such limitations, conditions and restrictions as may be specified by the Authority in this regard.

*Explanation*— In this section, the term “assets” means all the assets of insurer at their carrying value but does not include any assets specifically held against any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or miscellaneous expenditure or in respect of which the Authority is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.

(3) For the purposes of sub-sections (1) and (2), any specified assets shall, subject to such conditions, if any, as may be specified, be deemed to be assets invested or kept invested in approved investments specified by regulations.

(4) In computing the assets referred to in sub-sections (1) and (2), any investment made with reference to any currency other than the Indian rupee which is in excess of the amount required to meet the liabilities of the insurers in India with reference to that currency, to the extent of such excess, shall not be taken into account:

Provided that nothing contained in this sub-section shall affect the operation of sub-section (2):

Provided further that the Authority may, either generally or in any particular case, direct that any investment shall, subject to such conditions as may be imposed, be taken into account, in such manner as may be specified in computing the assets referred to in subsections (1) and (2) and where any direction has been issued under this proviso, copies thereof shall be laid before each house of Parliament as soon as may be after it is issued.

(5) Where an insurer has accepted re-insurance in respect of any policies of life insurance issued by another insurer and maturing for payment in India or has ceded reinsurance to another insurer in respect of any such policies issued by himself, the sum referred to in sub-section (1) shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of the liability involved in such cession.

(6) The Government securities and other approved securities in which assets are under sub-section (1) or (2) to be invested and

	<p>kept invested shall be held by the insurer free of any encumbrance, charge, hypothecation or lien.</p> <p>(7) The assets required by this section to be held invested by an insurer incorporated or domiciled outside India shall, except to the extent of any part thereof which consists of foreign assets held outside India, be held in India and all such assets shall be held in trust for the discharge of the liabilities of the nature referred to in sub-section (1) and shall be vested in trustees resident in India and approved by the Authority, and the instrument of trust under this sub-section shall be executed by the insurer with the approval of the Authority and shall define the manner in which alone the subject-matter of the trust shall be dealt with.</p> <p><i>Explanation.</i>—This sub-section shall apply to an insurer incorporated in India whose share capital to the extent of one-third is owned by, or the members of whose governing body to the extent of one-third consists of members domiciled elsewhere than in India.</p>	
	<p>27A. (1) No insurer carrying on life insurance business shall invest or keep invested any part of his controlled fund and no insurer carrying on general business shall invest or keep invested any part of his assets otherwise than in any of the approved investments as may be specified by the regulations subject to such limitations, conditions and restrictions therein.</p> <p>(2) Notwithstanding anything contained in sub-section (1) or (2) of section 27, an insurer may, subject to the provisions contained in the next succeeding sub-sections, invest or keep invested any part of his controlled fund or assets otherwise than in an approved investment, if—</p> <p>(i) after such investment, the total amounts of all such investments of the insurer do not exceed fifteen per cent. of the sum referred to in sub-section (1) of section 27 or fifteen per cent. of the assets referred to in sub-section (2) as the case may be;</p> <p>(ii) the investment is made, or, in the case of any investment already made, the continuance of such investment is with the consent of all the directors present at a meeting and eligible to vote, special notice of which has been given to all the directors then in India, and all such investments, including investments in which any director is interested, are reported without delay to the Authority with full details of the investments and the extent of the director's interest in any such investment.</p> <p>(3) An insurer shall not out of his controlled fund or assets as referred to in subsection (2) of section 27,—</p> <p>(a) invest in the shares of any one banking company, or</p>	<p>Further provisions regarding investments.</p>

(b) invest in the shares or debentures of any one company,  
more than the percentage specified by the regulations.

(4) An insurer shall not out of his controlled fund or assets as referred to in sub-section (2) of section 27 invest or keep invested in the shares or debentures of any private limited company.

(5) All assets forming the controlled fund or assets as referred to in sub-section (2), of section 27, not being Government securities or other approved securities in which assets are to be invested or held invested in accordance with this section, shall (except for a part thereof not exceeding one-tenth of the controlled fund or assets as referred to in sub-section (2) thereof in value which may, subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment), be held free of any encumbrance, charge, hypothecation or lien.

(6) If at any time the Authority considers any one or more of the investments of an insurer to be unsuitable or undesirable, the Authority may, after giving the insurer an opportunity of being heard, direct him to realise the investment or investments, and the insurer shall comply with the direction within such time as may be specified in this behalf by the Authority.

(7) Nothing contained in this section shall be deemed to affect in any way the manner in which any moneys relating to the provident fund of any employee or to any security taken from any employee or other moneys of a like nature are required to be held by or under any Central Act, or Act of a State legislature.

*Explanation.*—In this section “controlled fund” means—

(a) in the case of any insurer carrying on life insurance business—

(i) all his funds, if he carries on no other class of insurance business;

"(ii) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also.

*Explanation.*—For the purposes of sub-clauses (i) and (ii), the fund does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion, as the case may be, is regulated by the law in force of any country outside India or it would not be in the interest of the insurer to apply the provisions of this section."

(b) in the case of any other insurer carrying on life insurance business—



	<p>(i) all his funds in India, if he carries on no other class of insurance business;</p> <p>(ii) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also; but does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or in respect of which the Authority is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.</p>	
62 of 1968.	<p>27B. (1) All assets of an insurer carrying on general insurance business shall, subject to such conditions, if any, as may be prescribed, be deemed to be assets invested or kept invested in approved investments specified in section 27.</p> <p>(2) All assets shall (except for a part thereof not exceeding one-tenth of the total assets in value which may subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment or for payment of claims, or which may be kept as security deposit with the banks for acceptance of policies) be held free of any encumbrance, charge, hypothecation or lien.</p> <p>(3) Without prejudice to the powers conferred on the Authority by sub-section (5) of section 27A nothing contained in this section shall be deemed to require any insurer to realise any investment made in conformity with the provisions of sub-section (1) of section 27 after the commencement of the Insurance (Amendment) Act, 1968, which, after the making thereof, has ceased to be an approved investment within the meaning of this section.</p>	Provisions regarding investments of assets of insurer carrying general insurance business.
	<p>27C. An insurer may invest not more than five per cent. in aggregate of his controlled fund or assets as referred to in sub-section (2) of section 27 in the companies belonging to the promoters, subject to such conditions as may be specified by regulations.</p>	Investment by insurer in certain cases.
	<p>27D. (1) Without prejudice to anything contained in this section, the Authority may, in the interests of the policy-holders, specify by the regulations, the time, manner and other conditions of investment of assets to be held by an insurer for the purposes of this Act.</p> <p>(2) The Authority may give specific directions for the time, manner and other conditions subject to which the funds of policy-holders shall be invested in the infrastructure and social sector as may be specified by regulations and such regulations shall apply uniformly to all the insurers carrying on the business of life insurance, general insurance, or health insurance or re-</p>	Manner and condition of investment.

41 of 1999.	<p>insurance in India on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999.</p> <p>(3) The Authority may, after taking into account the nature of business and to protect the interests of the policy-holders, issue to an insurer the directions relating to the time, manner and other conditions of investment of assets to be held by him:</p> <p>Provided that no direction under this sub-section shall be issued unless the insurer concerned has been given a reasonable opportunity of being heard.</p>	
	27E. No insurer shall directly or indirectly invest outside India the funds of the policy-holders."	Prohibition for investment of funds outside india.
	<b>29.</b> For section 28, section 28A and section 28B of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 28, section 28A and section 28B.
	"28. Every insurer shall submit to the Authority returns giving details of investments made, in such form, time and manner including its authentication as may be specified by the regulations."	Statement and return of investment of assets.
	<b>30.</b> For section 29 of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 29.
	<p>“29. (1) No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security or otherwise, except loans on life policies issued by him within their surrender value, to any director, manager, actuary, auditor or officer of the insurer, if a company or to any other company or firm in which any such director, manager, actuary or officer holds the position of a director, manager, actuary, officer or partner:</p> <p>Provided that nothing contained in this sub-section shall apply to <b>such</b> loans, made by an insurer to a banking company, <b>as may be specified by the Authority:</b></p> <p>Provided further that nothing in this section shall prohibit a company from granting such loans or advances to a subsidiary company or to any other company of which the company granting the loan or advance is a subsidiary company if the previous approval of the Authority is obtained for such loan or advance.</p>	Prohibition of loans.
18 of 2013.	(2) The provisions of section <u>185</u> of the Companies Act, <u>2013</u> shall not apply to a loan granted to a director of an insurer being a company, if the loan is one granted on the security of a policy on which the insurer bears the risk and the policy was issued to	

	<p>the director on his own life, and the loan is within the surrender value of the policy.</p> <p>(3) Subject to the provisions of sub-section (1), no insurer shall grant —</p> <p>(a) any loans or temporary advances either on hypothecation of property or on personal security or otherwise, except such loans as may be specified by regulations including the loans sanctioned <u>as part of their salary package</u> to the fulltime employees of the insurer as per the scheme duly approved by its Board of Directors;</p> <p>(b) temporary advances to any insurance agent to facilitate the carrying out of his functions as such except in cases where such advances do not exceed in the aggregate the renewal commission earned by him during the year immediately preceding.</p> <p>(4) Where any event occurs given rise to circumstances, the existence of which at the time of grant of any subsisting loan or advance would have made such grant a contravention of this section, such loan or advance shall, notwithstanding anything in any contract to the contrary, be repaid within three months from the occurrence of such event.</p> <p>(5) In case of default in complying with the provisions of sub-section (4), the director, manager, auditor, actuary, officer or insurance agent concerned shall, without prejudice to any other penalty which he may incur, cease to hold office under, or to act for, the insurer granting the loan on the expiry of three months.”.</p>	
	<p><b>31.</b> For section 30 of the Insurance Act, the following section shall be substituted, namely:—</p>	<p>Substitution of section 30.</p>
	<p>“30. If by reason of a contravention of any of the provisions of section 27, 27A, 27B, 27C, 27D or section 29, any loss is sustained by the insurer or by the policyholders, every director, manager or officer who is knowingly a party to such contravention shall, without prejudice to any other penalty to which he may be liable under this Act, be jointly and severally liable to make good the amount of such loss.”.</p>	<p>Liability of directors, etc., for loss due to contravention of section 27, 27A, 27B, 27C, 27D or 29.</p>
	<p><b>32.</b> In section 31 of the Insurance Act, for sub-section (1), the following sub-section shall be substituted, namely:—</p> <p>“(1) None of the assets in India of any insurer shall, except in so far as assets are required to be vested in trustees under sub-section (7) of section 27, be kept otherwise than in the name of a public officer approved by the Authority, or in the corporate name of the undertaking, if a company or as the case may be an insurance co-operative society.”.</p>	<p>Amendment of section 31.</p>
	<p><b>33.</b> In section 31A of the Insurance Act,—</p>	<p>Amendment of</p>

7 of 1913.	<p>(a) in sub-section (I), in clause (c) —</p> <p>(I) <u>for sub-clauses (i) and (ii) to the proviso, the following sub-clause shall be substituted, namely:—</u></p> <p>“(i) the payment of commission to an insurance agent, in respect of insurance business procured by or through him;”;</p> <p>(II) clause (iii) to the proviso shall be omitted;</p> <p>(b) <u>in sub-section (3), for the words, figures and letter “or in section 86B of the Indian Companies Act, 1913”, the words “or in any other law for the time being in force” shall be substituted.</u></p>	section 31A.
	<p><b>34.</b> For section 31B of the Insurance Act, the following section shall be substituted, namely:—</p>	Substitution of new section for section 31B.
	<p>“31B. No insurer shall in respect of insurance business transacted by him, shall pay to any person by way of remuneration, whether by way of commission or otherwise in excess of such sum as may be specified by the regulations.” .</p>	Power to restrict payment of excessive remuneration.
	<p><b>35.</b> Section 32 of the Insurance Act shall be omitted.</p>	Omission of section 32.
	<p><b>36.</b> In section 32A of the Insurance Act,—</p> <p>(i) in sub-section (I), the words, <u>brackets, letter and</u> figures “specified in sub-clause (b) of clause (9) of section 2 and,” shall be omitted;</p> <p>(ii) sub-sections (2) and (3) shall be omitted.</p>	Amendment of section 32A.
	<p><b>37.</b> <u>In section 32B of the Insurance Act, for the words “rural or social sector”, the words “rural and social sectors” shall be substituted.</u></p>	Amendment of section 32B.
	<p><b>38.</b> After section 32C of the Insurance Act, the following section shall be inserted, namely:—</p>	Insertion of new section 32D.
	<p>“32D. Every insurer carrying on general insurance business shall, after the commencement of the Insurance Laws (Amendment) Act, <u>2014</u>, underwrite such minimum percentage of insurance business in third party risks of motor vehicles as may be specified by regulations:</p> <p>Provided that <b>the Authority may, by regulations, exempt any insurer who is primarily engaged in the business of health, re-insurance, agriculture, export credit guarantee, from the application of this section.</b>”.</p>	Obligation of insurer in respect of insurance business in third party risks of motor vehicle.
	<p><b>39.</b> For section 33 of the Insurance Act, the following section</p>	Substitution of

	shall be substituted, namely:—	new section for section 33.
18 of 2013.	<p>“33. (1) The Authority may, at any time, if it considers expedient to do so by order in writing, direct any person (hereafter in this section referred to as “Investigating Officer”) specified in the order to investigate the affairs of any insurer or intermediary or insurance intermediary, as the case may be, and to report to the Authority on any investigation made by such Investigating Officer:</p> <p>Provided that the Investigating Officer may, wherever necessary, employ any auditor or actuary or both for the purpose of assisting him in any investigation under this section.</p> <p>(2) Notwithstanding anything to the contrary contained in section <u>210</u> of the Companies Act, <u>2013</u>, the Investigating Officer may, at any time, and shall, on being directed so to do by the Authority, cause an inspection to be made by one or more of his officers of the books of account of any insurer or intermediary or insurance intermediary, as the case may be, and the Investigating Officer shall supply to the insurer or intermediary or insurance intermediary, as the case may be, a copy of the report on such inspection.</p> <p>(3) It shall be the duty of every manager, managing director or other officer of the insurer including a service provider, contractor of an insurer where services are outsourced by the insurer, or intermediary or insurance intermediary, as the case may be, to produce before the Investigating Officer directed to make the investigation under sub-section (1), or inspection under sub-section (2), all such books of account, registers, other documents and the database in his custody or power and to furnish him with any statement and information relating to the affairs of the insurer or intermediary or insurance intermediary, as the case may be, as the Investigating Officer may require of him within such time as the said Investigating Officer may specify.</p> <p>(4) Any Investigating Officer, directed to make an investigation under sub-section (1), or inspection under sub-section (2), may examine on oath, any manager, managing director or other officer of the insurer including a service provider or contractor where the services are outsourced by the insurer or intermediary or insurance intermediary, as the case may be, in relation to his business.</p> <p>(5) The Investigating Officer shall, if he has been directed by the Authority to cause an inspection to be made, make a report to the Authority on such inspection.</p> <p>(6) On receipt of any report under sub-section (1) or sub-section (5), the Authority may, after giving such opportunity to the insurer or intermediary or insurance intermediary, as the case</p>	Power of investigation and inspection by Authority.

	<p>may be, to make a representation in connection with the report as, in the opinion of the Authority, seems reasonable, by order in writing, —</p> <p>(a) require the insurer, to take such action in respect of any matter arising out of the report as the Authority may think fit; or</p> <p>(b) cancel the registration of the insurer or intermediary or insurance intermediary, as the case may be; or</p> <p>(c) direct any person to apply to the court for the winding up of the insurer or intermediary or insurance intermediary, as the case may be, if it is a company, whether the registration of the insurer or intermediary or insurance intermediary, as the case may be, has been cancelled under clause (b) or not.</p> <p>(7) The Authority may by the regulations made by it specify the minimum information to be maintained by insurers or intermediary or insurance intermediary, as the case may be, in their books, the manner in which such information shall be maintained, the checks and other verifications to be adopted by insurers or intermediary or insurance intermediary, as the case may be, in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Investigating Officer to discharge satisfactorily his functions under this section.</p> <p><i>Explanation.</i>—For the purposes of this section, expression “insurer” shall include in the case of an insurer incorporated in India—</p> <p>(a) all its subsidiaries formed for the purpose of carrying on the business of insurance exclusively outside India; and</p> <p>(b) all its branches whether situated in India or outside India.</p> <p><u>(8) Any insurer or intermediary or insurance intermediary aggrieved by any order made under this section may prefer an appeal to the Securities Appellate Tribunal.</u></p> <p>(9) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the insurer or intermediary or insurance intermediary, as the case may be, shall have priority over the debts due from the insurer and shall be recoverable as an arrear of land revenue.”.</p>	
	<p><b>40.</b> In section 34B of the Insurance Act, for sub-section (4), the following sub-section shall be substituted, namely:—</p> <p>“(4) If any person in respect of whom an order is made by the Authority under sub-section (1) or under the proviso to sub-section (2), contravenes the provisions of this section, he shall be liable to a penalty of one lakh rupees for each day during which</p>	<p>Amendment of section 34B.</p>

	such contravention continues or one crore rupees, whichever is less.”.	
	<p><b>41.</b> In section 34C of the Insurance Act, for sub-section (1), the following sub-section shall be substituted, namely:—</p> <p>“(1) If the Authority is of opinion that in the public interest or in the interest of an insurer or his policy-holders it is necessary so to do, it may, from time to time, by order in writing, appoint, in consultation with the Central Government with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the insurer:</p> <p>Provided that the number of additional directors so appointed shall not, at any time, exceed five or one-third of the maximum strength fixed for the Board by the articles of association of the insurer, whichever is less.”.</p>	Amendment of section 34C.
	<b>42. (***)</b>	Omission of clause 42.
	<b>43.</b> Section 34G of the Insurance Act shall be omitted.	Amendment of section 34G.
	<p><b>44.</b> In section 34H of the Insurance Act,—</p> <p>(i) in sub-section (1), for the words “an officer authorised by the Authority”, the words “a Deputy Director <b>or an equivalent officer</b>” shall be substituted;</p> <p>(ii) in sub-sections (7) and (8), for the words “Central Government”, the words “Securities Appellate Tribunal” shall be substituted.</p>	Amendment of section 34H.
	<p><b>45.</b> In section 35 of the Insurance Act,—</p> <p>(i) for sub-section (1), the following sub-section shall be substituted, namely:—</p> <p>“(1) Notwithstanding anything contained in any other law for the time being in force, no insurance business of an insurer shall be transferred to or amalgamated with the insurance business of any other insurer except in accordance with a scheme prepared under this section and approved by the Authority.”;</p> <p>(ii) in sub-section (3), for clauses (b) and (c), the following clauses shall be substituted, namely :—</p> <p>“(b) balance-sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in such forms may be specified by regulation;</p> <p>(c) actuarial reports and abstracts in respect of the life insurance business of each of the insurers so concerned, prepared in conformity with the regulations specified in this regard.”.</p>	Amendment of section 35.

	<b>46.</b> For section 36 of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 36.
	“36. When any application under sub-section (3) of section 35 is made to the Authority, the Authority shall cause, a notice of the application to be given to the holders of any kind of policy of insurer concerned alongwith statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such period as it may direct, and, after hearing the directors and considering the objections of the policy-holders and any other persons whom it considers entitled to be heard, may approve the arrangement, and shall make such consequential orders as are necessary to give effect to the arrangement.”.	Sanction of amalgamation and transfer by Authority.
	<p><b>47.</b> In section 37A of the Insurance Act, for sub-section (4), the following sub-sections shall be substituted, namely:—</p> <p>“(4) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modification or with such modifications as it may consider necessary, and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may notify in this behalf in the Official Gazette:</p> <p>Provided that different dates may be specified for different provisions of the scheme.</p> <p>(4A) Every policy-holder or shareholder or member of each of the insurers, before amalgamation, shall have the same interest in, or rights against the insurer resulting from amalgamation as he had in the company of which he was originally a policy-holder or shareholder or member:</p> <p>Provided that where the interests or rights of any shareholder or member are less than his interest in, or rights against, the original insurer, he shall be entitled to compensation, which shall be assessed by the Authority in such manner as may be specified by regulations.</p> <p>(4B) The compensation so assessed shall be paid to the shareholder or member by the insurance company resulting from such amalgamation.</p> <p>(4C) Any member or shareholder aggrieved by the assessment of compensation made by the Authority under sub-section (4A) may within thirty days from the publication of such assessment prefer an appeal to the Securities Appellate Tribunal.”.</p>	Amendment of section 37A.
	<b>48.</b> For sections 38, 39 and 40 of the Insurance Act, the following sections shall be substituted, namely:—	Substitution of new sections for sections 38, 39 and 40.



<p>“38. (1) A transfer or assignment of a policy of insurance, wholly or in part, whether with or without consideration, may be made only by an endorsement upon the policy itself or by a separate instrument, signed in either case by the transferor or by the assignor or his duly authorised agent and attested by at least one witness, specifically setting forth the fact of transfer or assignment and the reasons thereof, the antecedents of the assignee and the terms on which the assignment is made.</p> <p>(2) An insurer may, accept the transfer or assignment, or decline to act upon any endorsement made under sub-section (1), where it has sufficient reason to believe that such transfer or assignment is not bona fide or is not in the interest of the policy-holder or in public interest <u>or is for the purpose of trading of insurance policy.</u></p> <p>(3) The insurer shall, before refusing to act upon the endorsement, record in writing the reasons for such refusal and communicate the same to the policy-holder not later than thirty days from the date of the policy-holder giving notice of such transfer or assignment.</p> <p>(4) Any person aggrieved by the decision of an insurer to decline to act upon such transfer or assignment may within a period of thirty days from the date of receipt of the communication from the insurer containing reasons for such refusal, prefer a claim to the Authority.</p> <p>(5) Subject to the provisions in sub-section (2), the transfer or assignment shall be complete and effectual upon the execution of such endorsement or instrument duly attested but except, where the transfer or assignment is in favour of the insurer, shall not be operative as against an insurer, and shall not confer upon the transferee or assignee, or his legal representative, any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment and either the said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorised agents have been delivered to the insurer:</p> <p>Provided that where the insurer maintains one or more places of business in India, such notice shall be delivered only at the place where the policy is being serviced (***)</p> <p>(6) The date on which the notice referred to in sub-section (5) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment as between persons interested in the policy; and where there is more than one instrument of transfer or assignment the priority of the claims under such instruments shall be governed by the order in which the notices referred to in sub-section (5) are delivered:</p> <p>Provided that if any dispute as to priority of payment arises as</p>	<p>Assignment and transfer of insurance policies.</p>
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between assignees, the dispute shall be referred to the Authority.

(7) Upon the receipt of the notice referred to in sub-section (5), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given, or of the transferee or assignee, on payment of such fee as may be specified by regulations, grant a written acknowledgement of the receipt of such notice; and any such acknowledgement shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgment relates.

(8) Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the notice referred to in sub-section (5), recognise the transferee or assignee named in the notice as the absolute transferee or assignee entitled to benefit under the policy, and such person shall be subject to all liabilities and equities to which the transferor or assignor was subject at the date of the transfer or assignment and may institute any proceedings in relation to the policy, obtain a loan under the policy or surrender the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

*Explanation.*— Except where the endorsement referred to in sub-section (1) expressly indicates that the assignment or transfer is conditional in terms of subsection (10) hereunder, every assignment or transfer shall be deemed to be an absolute assignment or transfer and the assignee or transferee, as the case may be, shall be deemed to be the absolute assignee or transferee respectively.

(9) Any rights and remedies of an assignee or transferee of a policy of life insurance under an assignment or transfer effected prior to the commencement of the Insurance Laws (Amendment) Act, 2014 shall not be affected by the provisions of this section.

(10) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made upon the condition that —

(a) the proceeds under the policy shall become payable to the policyholder or the nominee or nominees in the event of either the assignee or transferee predeceasing the insured; or

(b) the insured surviving the term of the policy,

shall be valid:

Provided that a conditional assignee shall not be entitled to obtain a loan on the policy or surrender a policy.

	<p>(11) In the case of the partial assignment or transfer of a policy of insurance under sub-section (1), the liability of the insurer shall be limited to the amount secured by partial assignment or transfer and such policy-holder shall not be entitled to further assign or transfer the residual amount payable under the same policy.</p>	
	<p>39. (1) The holder of a policy of life insurance on his own life may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death:</p> <p style="padding-left: 40px;">Provided that, where any nominee is a minor, it shall be lawful for the policyholder to appoint any person in the manner laid down by the insurer, to receive the money secured by the policy in the event of his death during the minority of the nominee.</p> <p>(2) Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement or a will, as the case may be, but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made bona fide by him to a nominee mentioned in the text of the policy or registered in records of the insurer.</p> <p>(3) The insurer shall furnish to the policyholder a written acknowledgment of having registered a nomination or a cancellation or change thereof, and may charge such fee as may be specified by regulations for registering such cancellation or change.</p> <p>(4) A transfer or assignment of a policy made in accordance with section 38 shall automatically cancel a nomination:</p> <p style="padding-left: 40px;">Provided that the assignment of a policy to the insurer who bears the risk on the policy at the time of the assignment, in consideration of a loan granted by that insurer on the security of the policy within its surrender value, or its re-assignment on repayment of the loan shall not cancel a nomination, but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy:</p> <p style="padding-left: 40px;">Provided further that the transfer or assignment of a policy, whether wholly or in part, in consideration of a loan advanced by the transferee or assignee to the policyholder, shall not cancel the nomination but shall affect the rights of the nominee only to the extent of the interest of the transferee or assignee, as the case</p>	<p>Nomination by policy-holder.</p>

may be, in the policy:

Provided also that the nomination, which has been automatically cancelled consequent upon the transfer or assignment, the same nomination shall stand automatically revived when the policy is reassigned by the assignee or retransferred by the transferee in favour of the policy-holder on repayment of loan other than on a security of policy to the insurer.

(5) Where the policy matures for payment during the lifetime of the person whose life is insured or where the nominee or, if there are more nominees than one, all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policy-holder or his heirs or legal representatives or the holder of a succession certificate, as the case may be.

(6) Where the nominee or if there are more nominees than one, a nominee or nominees survive the person whose life is insured, the amount secured by the policy shall be payable to such survivor or survivors.

(7) Subject to the other provisions of this section, where the holder of a policy of insurance on his own life nominates his parents, or his spouse, or his children, or his spouse and children, or any of them, the nominee or nominees shall be beneficially entitled to the amount payable by the insurer to him or them under sub-section (6) unless it is proved that the holder of the policy, having regard to the nature of his title to the policy, could not have conferred any such beneficial title on the nominee.

(8) Subject as aforesaid, where the nominee, or if there are more nominees than one, a nominee or nominees, to whom sub-section (7) applies, die after the person whose life is insured but before the amount secured by the policy is paid, the amount secured by the policy, or so much of the amount secured by the policy as represents the share of the nominee or nominees so dying (as the case may be), shall be payable to the heirs or legal representatives of the nominee or nominees or the holder of a succession certificate, as the case may be, and they shall be beneficially entitled to such amount.

(9) Nothing in sub-sections (7) and (8) shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of life insurance.

(10) The provisions of sub-sections (7) and (8) shall apply to all policies of life insurance maturing for payment after the commencement of the Insurance Laws (Amendment) Act, 2014.

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(11) Where a policy-holder dies after the maturity of the policy

3 of 1874.	<p>but the proceeds and benefit of his policy has not been made to him because of his death, in such a case, his nominee shall be entitled to the proceeds and benefit of his policy.</p> <p>(12) The provisions of this section shall not apply to any policy of life insurance to which section 6 of the Married Women's Property Act, 1874, applies or has at any time applied:</p> <p>Provided that where a nomination made whether before or after the commencement of the Insurance Laws (Amendment) Act, 2014, in favour of the wife of the person who has insured his life or of his wife and children or any of them is expressed, whether or not on the face of the policy, as being made under this section, the said section 6 shall be deemed not to apply or not to have applied to the policy.</p>	
	<p>40. (1) No person shall, pay or contract to pay any remuneration or reward, whether by way of commission or otherwise for soliciting or procuring insurance business in India to any person except an insurance agent or an intermediary or insurance intermediary in such manner as may be specified by regulations.</p> <p>(2) No insurance agent or intermediary or insurance intermediary shall receive or contract to receive commission or remuneration in any form in respect of policies issued in India, by an insurer in any form in respect of policies issued in India, by an insurer except in accordance with the regulations specified in this regard:</p> <p style="text-align: center;"><b>Provided that the Authority, while making regulations under sub-sections (1) and (2), shall take into consideration the nature and tenure of the policy and in particular the interest of the agents and other intermediaries concerned.</b></p> <p>(3) Without prejudice to the provisions of section 102 in respect of a contravention of any of the provisions of the preceding sub-sections or the regulations framed in this regard, by an insurer, any insurance agent or intermediary or insurance intermediary who contravenes the said provisions shall be liable to a penalty which may extend to rupees one lakh.”.</p>	Prohibition of payment by way of commission or otherwise for procuring business.
	<b>49.</b> Section 40A of the Insurance Act shall be omitted.	Omission of section 40A.
	<b>50.</b> For section 40B and section 40C of the Insurance Act, the following sections shall be substituted, namely:—	Substitution of new sections for sections 40B and 40C.
	<u>“40B. No insurer shall, in respect of insurance business transacted by him in India, spend as expenses of management in any financial year any amount exceeding the amount as may be specified by regulations made under this Act;</u>	Limitation of expenses of management in life insurance business.
	<u>40C. Every insurer transacting insurance business in India shall furnish to the Authority, the details of expenses of management in</u>	Limitation of expenses of

	<u>such manner and form as may be specified by regulations made under this Act.”.</u>	management in general, health insurance and re-insurance business.
	(***)	Omission of new clause 50A.
	<b>51.</b> In section 41 of the Insurance Act, for sub-section (2), the following sub-section shall be substituted, namely:—  "(2) Any person making default in complying with the provisions of this section shall be liable for a penalty which may extend to <u>ten</u> lakh rupees.”.	Amendment of section 41.
	<b>52.</b> For section 42 of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 42.
	" <u>42.</u> (1) An insurer may appoint any person to act as insurance agent for the purpose of soliciting and procuring insurance business:  Provided that such person does not suffer from any of the disqualifications mentioned in sub-section (3).  (2) No person shall act as an insurance agent for more than one life insurer, <b>one general insurer, one health insurer</b> and one of <b>each of the other mono-line insurers</b> :  <b>Provided that the Authority shall, while framing regulations, ensure that no conflict of interest is allowed to arise for any agent in representing two or more insurers for whom he may be an agent.</b>  (3) The disqualifications referred to in the proviso to sub-section (1) shall be the following:—  (a) that the person is a minor;  (b) that he is found to be of unsound mind by a court of competent jurisdiction;  (c) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment of or attempt to commit any such offence by a court of competent jurisdiction:  Provided that where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the Authority shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause;  (d) that in the course of any judicial proceeding relating to any policy of insurance or the winding up of an insurer or in the	Appointment of insurance agents.

	<p>course of an investigation of the affairs of an insurer it has been found that he has been guilty of or has knowingly participated in or connived at any fraud, dishonesty or misrepresentation against an insurer or insured;</p> <p>(e) that in the case of an individual, who does not possess the requisite qualifications or practical training or passed the examination, as may be specified by the regulations;</p> <p>(f) that in the case of a company or firm making, a director or a partner or one or more of its officers or other employees so designated by it and in the case of any other person the chief executive, by whatever name called, or one or more of his employees designated by him, do not possess the requisite qualifications or practical training and have not passed such an examination as required under clauses (e) and (g);</p> <p>(g) that he has not passed such examination as may be specified by the regulations;</p> <p>(h) that he has violated the code of conduct specified by the regulations.</p> <p>(4) Any person who acts as an insurance agent in contravention of the provision of this Act, shall be liable to a penalty which may extend to ten thousand rupees and any insurer or any person acting on behalf of an insurer, who appoints any person as an insurance agent not permitted to act as such or transacts any insurance business in India through any such person shall be liable to penalty which may extend to one crore rupees.</p> <p><u>(5) The insurer shall be responsible for all the acts and omissions of its agents including violation of code of conduct specified under clause (h) of sub-section (3) and liable to a penalty which may extend to one crore rupees.”.</u></p>	
	<p><b>53.</b> For sections 42A, 42B and 42C of the Insurance Act, the following section shall be substituted, namely:-</p>	<p>Substitution of new sections for section 42A, 42B and 42C.</p>
	<p><u>‘42A. (1) No insurer shall, on or after the commencement of the Insurance Laws (Amendment) Act, 2014, appoint any principal agent, chief agent, and special agent and transact any insurance business in India through them.</u></p> <p><u>(2) No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to take out or renew or continue an insurance policy through multilevel marketing scheme.</u></p> <p><u>(3) The Authority may, through an officer authorised in this behalf, make a complaint to the appropriate police authorities relating to the entity or persons involved in the multilevel marketing scheme.</u></p>	<p>Prohibition of insurance business through principal agent, special agent and multilevel marketing.</p>

	<p><u>Explanation.—For the purpose of this section “multilevel marketing scheme” means any scheme or programme or arrangement or plan (by whatever name called) for the purpose of soliciting and procuring insurance business through persons not authorised for the said purpose with or without consideration of whole or part of commission or remuneration earned through such solicitation and procurement and includes enrolment of persons into a multi level chain for the said purpose either directly or indirectly.’.</u></p>	
	<p><b>54.</b> In section 42D of the Insurance Act,—</p> <p>(i) for the words "licence" and "licence issued", wherever they occur, the words "registration" and "registration made", shall respectively be substituted;</p> <p>(ii) in sub-section (1), in clause (a) of the proviso, for the word, brackets and figure “sub-section (4)”, the word, brackets and figure “sub-section (3)” shall be substituted;</p>	Amendment of section 42D.
	<p>(iii) in sub-section (3),—</p> <p>(a) <u>after the words “directors or partners” the words “or one or more of its officers or other employees so designated by it and in the case of any other person, the chief executive by whatever name called, or one or more of his employees designated by him” shall be inserted;</u></p> <p>(b) <u>for the words, brackets, letters and figures “in clauses (b), (c), (d), (e) and (f) of sub-section (4) of section 42”, the words, brackets, letters and figures “ in clauses (b), (c), (d), (e) and (g) of sub-section (3) of section 42” shall be substituted;</u></p> <p>(iv) <u>for sub-sections (8) and (9), the following sub-sections, shall be substituted, namely:-</u></p> <p><u>“(8) Any person who acts as an intermediary or an insurance intermediary without being registered under this section to act as such, shall be liable to a penalty which may extend to ten lakh rupees and any person who appoints as an intermediary or an insurance intermediary or any person not registered to act as such or transacts any insurance business in India through any such person, shall be liable to a penalty which may extend to one crore rupees.</u></p> <p><u>(9) Where the person contravening sub-section (8) is a company or a firm, then, without prejudice to any other proceedings which may be taken against the company or firm, every director, manager, secretary or other officer of the company, and every partner of the firm who is knowingly a party to such contravention shall be liable to a penalty which may extend to ten lakh rupees.”.</u></p>	
	<p><b>55.</b> For section 42E of the Insurance Act, the following section shall be substituted, namely:—</p>	Substitution of new section for



		section 42E.
	"42E. Without prejudice to the provisions contained in this Act, the Authority may, by regulations made in this behalf, specify the requirements of capital, form of business and other conditions, to act as an intermediary or an insurance intermediary.".	Condition for intermediary or insurance intermediary.
	<b>56.</b> For section 43 of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 43.
	"43. (1) Every insurer and every person who acting on behalf of an insurer employs insurance agents shall maintain a record showing the name and address of every insurance agent appointed by him and the date on which his appointment began and the date, if any, on which his appointment ceased.  <u>(2) The record prepared by the insurer under sub-section (1), shall be maintained as long as the insurance agent is in service and for a period of five years after the cessation of appointment</u> ".	Record of insurance agents.
	<b>57.</b> Section 44 of the Insurance Act shall be omitted.	Omission of section 44.
	<b>58.</b> For sections 44A and 45 of the Insurance Act, the following sections shall be substituted, namely:—	Substitution of new sections for sections 44A and 45.
	'44A. For the purposes of ensuring compliance with the provisions of sections 40, 40B <u>and</u> 40C, the Authority may, by notice—  (a) require from an insurer such information, certified if so required by an auditor or actuary, as he may consider necessary;  (b) require an insurer to submit for his examination at the principal place of business of the insurer in India, any book of account, register or other document, or to supply any statement which may be specified in the notice;  (c) examine any officer of an insurer on oath, in relation to any such information, book, register, document or statement and the insurer, shall comply with any such requirement within such time as may be specified in the notice.	Power to call for information.
	45. (1) No policy of life insurance shall be called in question on any ground whatsoever after the expiry of <u>three</u> years from the date of the policy, <i>i.e.</i> , from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later.  (2) A policy of life insurance may be called in question at any time within <u>three</u> years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on	Policy not be called in question on ground of misstatement after three years.

the ground of fraud:

Provided that the insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision is based.

*Explanation I.*—For the purposes of this sub-section, the expression “fraud” means any of the following acts committed by the insured or by his agent, with the intent to deceive the insurer or to induce the insurer to issue a life insurance policy:

(a) the suggestion, as a fact of that which is not true and which the insured does not believe to be true;

(b) the active concealment of a fact by the insured having knowledge or belief of the fact;

(c) any other act fitted to deceive; and

(d) any such act or omission as the law specially declares to be fraudulent.

*Explanation II.*—Mere silence as to facts likely to affect the assessment of the risk by the insurer is not fraud, unless the circumstances of the case are such that regard being had to them, it is the duty of the insured or his agent, keeping silence to speak, or unless his silence is, in itself, equivalent to speak.

(3) Notwithstanding anything contained in sub-section (2), no insurer shall repudiate a life insurance policy on the ground of fraud if the insured can prove that the mis-statement of or suppression of a material fact was true to the best of his knowledge and belief or that there was no deliberate intention to suppress the fact or that such mis-statement of or suppression of a material fact are within the knowledge of the insurer:

Provided that in case of fraud, the onus of disproving lies upon the beneficiaries, in case the policyholder is not alive.

*Explanation.*—A person who solicits and negotiates a contract of insurance shall be deemed for the purpose of the formation of the contract, to be the agent of the insurer.

(4) A policy of life insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on the ground that any statement of or suppression of a fact material to the expectancy of the life of the insured was incorrectly made in the proposal or other document on the basis of which the policy was issued or revived or rider issued:

	<p>Provided that the insurer <u>shall</u> have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision to repudiate the policy of life insurance is based:</p> <p>Provided further that in case of repudiation of the policy on the ground of misstatement or suppression of a material fact, and not on the ground of fraud, the premiums collected on the policy till the date of repudiation shall be paid to the insured or the legal representatives or nominees or assignees of the insured within a period of ninety days from the date of such repudiation.</p> <p><i>Explanation</i>—For the purposes of this sub-section, the misstatement of or suppression of fact <u>shall</u> not be considered material unless it has a direct bearing on the risk undertaken by the insurer, the onus is on the insurer to show that had the insurer been aware of the said fact no life insurance policy would have been issued to the insured.</p> <p>(5) Nothing in this section shall prevent the insurer from calling for proof of age at any time if he is entitled to do so, and no policy shall be deemed to be called in question merely because the terms of the policy are adjusted on subsequent proof that the age of the life insured was incorrectly stated in the proposal.’.</p>	
	<p><b>59.</b> Sections 47A and 48 of the Insurance Act shall be omitted.</p>	<p>Omission of sections 47A and 48.</p>
	<p><b>60.</b> For section 48A of the Insurance Act, the following section shall be substituted, namely:—</p>	<p>Substitution of new section for section 48A.</p>
	<p>"48A. No insurance agent or intermediary or insurance intermediary shall be eligible to be or remain a director in insurance company:</p> <p>Provided that any director holding office at the commencement of the Insurance Laws (Amendment) Act, <u>2014</u> shall not become ineligible to remain a director by reason of this section until the expiry of six months from the date of commencement of the said Act:</p> <p>Provided further that the Authority may permit an agent or intermediary or insurance intermediary to be on the Board of an insurance company subject to such conditions or restrictions as it may impose to protect the interest of policy-holders or to avoid conflict of interest."</p>	<p>Insurance agent or intermediary or insurance intermediary not to be director in insurance company.</p>
	<p><b>61.</b> In section 49 of the Insurance Act, in sub-section (1),—</p> <p>(i) the words, <u>brackets, letters and figures</u> "being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2" shall be omitted;</p>	<p>Amendment of section 49.</p>

7 of 1912.	(ii) the words <u>and figures</u> "or to the Central Government under section 11 of the Indian Life Insurance Companies Act, 1912" shall be omitted.	
	<b>62.</b> For sections 52 and 52A of the Insurance Act, the following sections shall be substituted, namely:—	Substitution of new sections 52 and 52A.
	<p>"52. No insurer shall commence any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the result of a distribution of certain sums amongst policies becoming claims within certain time-limits, or on the principle that the premiums payable by a policy-holder depend wholly or partly on the number of policies becoming claims within certain time-limits:</p> <p>Provided that nothing in this section shall be deemed to prevent an insurer from allocating bonuses to holders of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to the sums insured or as immediate cash bonuses or otherwise.</p>	Prohibition of business on dividing principle.
	<p>52A. (1) If at any time the Authority has reason to believe that an insurer carrying on life insurance business is acting in a manner likely to be prejudicial to the interests of holders of life insurance policies, it may, after giving such opportunity to the insurer to be heard appoint an Administrator to manage the affairs of the insurer under the direction and control of the Authority.</p> <p>(2) The Administrator shall receive such remuneration as the Authority may direct and the Authority may at any time cancel the appointment and appoint some other person as Administrator."</p>	When Administrator for management of insurance business may be appointed.
	<p><b>63.</b> In section 52BB of the Insurance Act,—</p> <p>(a) in sub-section (2), for the words "the Central Government and the Central Government", the words "<u>the</u> Securities Appellate Tribunal and the Securities Appellate Tribunal" shall be substituted;</p> <p>(b) in sub-section (3), for the words "Central Government", the words "Securities Appellate Tribunal", shall be substituted;</p> <p>(c) in sub-section (10), in clause (a), the words "or the Central Government" shall be omitted.</p>	Amendment of section 52BB.
	<b>64.</b> For section 52D of the Insurance Act, the following section shall be substituted, namely:—	Substitution of section 52D.
	"52D. If at any time, it appears to the Authority that the purpose of the order appointing the Administrator has been fulfilled or	Termination of appointment of Administrator.

	that, for any reason, it is undesirable that the order of appointment should remain in force, the Authority may cancel the order and thereupon the Administrator shall be divested of the management of the insurance business which shall, unless otherwise directed by the Authority, again vest in the person in whom it was vested immediately prior to the appointment of Administrator or any other person appointed by the insurer in this behalf."	
	<b>65.</b> In section 52E of the Insurance Act, for the words "Central Government", the word "Authority" shall be substituted."	Amendment of section 52E.
	<b>66.</b> In section 52F of the Insurance Act, for the words "punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the words "liable to penalty of rupees ten thousand each day during which such failure continues or rupees ten lakh, whichever is less" shall be substituted.	Amendment of section 52F.
	<b>67.</b> In section 52G of the Insurance Act, in sub-section (2), the words "Central Government or" shall be omitted.	Amendment of section 52G.
	<b>68.</b> <u>Sections 52H, 52-I, 52J, 52K, 52L, 52M and 52N of the Insurance Act shall be omitted.</u>	Omission of sections 52H, 52-I, 52J, 52K, 52L, 52M and 52N.
18 of 2013.	<b>69.</b> In section 53 of the Insurance Act,—  (a) in sub-section (1), the following <i>Explanation</i> shall be inserted at the end, namely:—  “ <i>Explanation.</i> —For the purpose of sections 53 to 61A, "Tribunal" means the National Company Law Tribunal constituted under sub-section (1) of section 408 of the Companies Act, 2013.”;  (b) in sub-section (2), in clause (b), sub-clause (i), shall be omitted.	Amendment of section 53.
18 of 2013.	<b>70.</b> In section 58 of the Insurance Act, for sub-section (4), the following sub-section shall be substituted, namely:—  “(4) An order of the Tribunal confirming a scheme under this section whereby the memorandum of a company is altered with respect to its objects shall as respects the alteration have effect as if it were an order confirmed under section 4 of the Companies Act, 2013, and the provisions of sections 7 and 17 of that Act shall apply accordingly.”.	Amendment of section 58.
	<b>71.</b> Section 59 of the Insurance Act, shall be omitted.	Omission of section 59.
	<b>72.</b> (***)	Omission of

		clause 72.
	<p><b>73.</b> In Part II A of the Insurance Act, for the heading "INSURANCE ASSOCIATION OF INDIA, COUNCILS OF THE ASSOCIATION AND COMMITTEES THEREOF" the following heading shall be substituted, namely:—</p> <p>"LIFE INSURANCE COUNCIL AND GENERAL INSURANCE COUNCIL AND COMMITTEES THEREOF."</p>	Amendment of heading.
	<b>74.</b> Sections 64A and 64B of the Insurance Act, shall be omitted.	Omission of sections 64A and 64B.
	<b>75.</b> For sections 64C and 64D of the Insurance Act, the following sections shall be substituted, namely :—	Substitution of new sections for sections 64C and 64D.
	<p>“64C. On and from the date of commencement of the Insurance Laws (Amendment) Act, <u>2014</u>,—</p> <p>(a) the existing Life Insurance Council, a representative body of the insurers, who carry on the life insurance business in India; and</p> <p>(b) the existing General Insurance Council, a representative body of insurers, who carry on general, health insurance business and re-insurance in India,</p> <p>shall be deemed to have been constituted as the respective Councils under this Act.</p>	Councils of Life Insurance and General Insurance.
	64D. It shall be lawful for any member of the Life Insurance Council or the General Insurance Council to authorise any of its officer to act as the representative of such member at any meeting of the Council concerned.”.	Authorisation to represent in Councils.
	<b>76.</b> For section 64F of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section section 64F.
	<p>“64F. (1) The Executive Committee of the Life Insurance Council shall consist of the following persons, namely:—</p> <p>(a) four representatives of members of the Life Insurance Council elected in their individual capacity by the members in such manner as may be laid down in the bye-laws of the Council;</p>	Executive Committees of the Life Insurance Council and the General Insurance Council.
	<p>(b) an eminent person not connected with insurance business, nominated by the Authority; and</p> <p>(c) three persons to represent insurance agents, intermediaries and policyholders respectively as may be nominated by the Authority;</p>	

**(d) one representative each from self-help groups and Insurance Co-operative Societies:**

Provided that one of the representatives as mentioned in clause (a) shall be elected as the Chairperson of the Executive Committee of the Life Insurance Council.

(2) The Executive Committee of the General Insurance Council shall consist of the following persons, namely:—

(a) four representatives of members of the General Insurance Council elected in their individual capacity by the members in such manner as may be laid down in the bye-laws of the Council;

(b) an eminent person not connected with insurance business, nominated by the Authority; and

(c) four persons to represent insurance agents, third party administrators, surveyors and loss assessors and policy-holders respectively as may be nominated by the Authority:

Provided that one of the representatives as mentioned in clause (a) shall be elected as the Chairperson of the Executive Committee of the General Insurance Council.

(3) If anybody of persons specified in sub-sections (1) and (2) fails to elect any of the members of the Executive Committees of the Life Insurance Council or the General Insurance Council, the Authority may nominate any person to fill the vacancy, and any person so nominated shall be deemed to be a member of the Executive Committee of the Life Insurance Council or the General Insurance Council, as the case may be, as if he had been duly elected thereto.

(4) Each of the said Executive Committees may make bye-laws for the transaction of any business at any meeting of the said Committee.

(5) The Life Insurance Council or the General Insurance Council may form such other committees consisting of such persons as it may think fit to discharge such functions as may be delegated thereto.

(6) The Secretary of the Executive Committee of the Life Insurance Council and of the Executive Committee of the General Insurance Council shall in each case be appointed by the Executive Committee concerned:

Provided that each Secretary appointed by the Executive Committee concerned shall exercise all such powers and do all such acts as may be authorised in this behalf by the Executive Committee concerned.”.

	<b>77.</b> In section 64G of the Insurance Act, in sub-section (2), for the words “by nomination by the Authority”, the words “in such manner as may be laid down in the byelaws of the Council concerned” shall be substituted.	Amendment of section 64G.
	<b>78.</b> Section 64-I of the Insurance Act, shall be omitted.	Omission of section 64-I.
	<b>79.</b> In section 64J of the Insurance Act, for sub-section (2), the following sub-section shall be substituted, namely:—  “(2) For the purpose of enabling it to effectively discharge its functions, the Executive Committee of the Life Insurance Council may collect such fees as may be laid down in the byelaws made by the Council from the insurers carrying on life insurance business.”.	Amendment of section 64J.
	<b>80.</b> In section 64L of the Insurance Act, for sub-section (2), the following sub-section shall be substituted, namely:—  “(2) For the purpose of enabling it to effectively discharge its functions, the Executive Committee of the General Insurance Council may collect such fees as may be laid down in the byelaws made by the Council from the insurers carrying on general insurance business.”.	Amendment of section 64L.
	<b>81.</b> In section 64N of the Insurance Act, for the words “the Central Government may prescribe”, the words “the Authority may specify” shall be substituted.	Amendment of section 64N.
	<b>82.</b> In section 64R of the Insurance Act, in sub-section (1),—  (a) for clause (c), the following clause shall be substituted, namely:—  “(c) keep and maintain up to date a copy of list of all insurers who are members of the either Council.”.  (b) in clause (d), for the words “with the previous approval of the Authority make regulations for”, the words “make bye laws for” shall be substituted.	Amendment of section 64R.
	<b>83.</b> Sections 64S and 64T of the Insurance Act, shall be omitted.	Omission of sections 64S and 64T.
4 of 1938.	<b>84.</b> <u>Sections 64U, 64UA, 64UB, 64UC, 64UD, 64UE, 64UF, 64UG, 64UH, 64UI, 64UJ, 64UK and 64UL of the Insurance Act, 1938 shall be omitted.</u>	Omission of sections 64U, 64UA, 64UB, 64UC, 64UD, 64UE, 64UF, 64UG, 64UH, 64UI, 64UJ, 64UK and 64UL.
	<b>85.</b> After section 64UL of the Insurance Act, the following	Insertion of new section 64ULA.



	section shall be inserted, namely:—	
	<p>“64ULA. (1) Notwithstanding anything contained in this Part, until the rates, advantage and terms and conditions laid-down by the Advisory Committee under section 64UC are de-notified by the Authority with effect from such date as the Authority may by notification in the Official Gazette determine, and the rates, advantages and terms and conditions are decided by the insurer concerned, the rates, advantages and terms and conditions notified by the Advisory Committee shall continue to be in force and shall always be deemed to have been in force and any such rates, advantages and terms and conditions shall be binding on all the insurers.</p> <p>(2) The Authority shall, in consultation with the Central Government, prepare a scheme for the existing employees of the Tariff Advisory Committee on its dissolution, keeping in view the interests of such employees on such terms and conditions as it may, by order, determine.</p>	Transitional provisions.
	<b>86.</b> For section 64UM of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 64UM.
	<p><u>64UM. (1) Save as otherwise provided in this section, no person shall act as a surveyor or loss assessor in respect of general insurance business after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Act, 2014, unless he—</u></p> <p><u>_____ (a) possesses such academic qualifications as may be specified by regulations made under this Act; and</u></p> <p><u>_____ (b) is a member of a professional body of surveyors and loss assessors, namely, the Indian Institute of Insurance Surveyors and Loss Assessors;</u></p> <p><u>_____ Provided that in the case of a firm or company, all the partners or directors or other persons, who may be called upon to make a survey or assess a loss reported, as the case may be, shall fulfil the requirements of clauses (a) and (b).</u></p> <p><u>_____ (2) Every surveyor and loss assessor shall comply with the code of conduct in respect of his duties, responsibilities and other professional requirements, as may be specified by the regulations made under the Act.</u></p> <p><u>_____ (3) Notwithstanding anything contained in the foregoing provisions, a class or class of persons acting as a licensed surveyor or loss assessor prior to the commencement of the Insurance Laws (Amendment) Act, 2014 shall continue to act as such for such period as may be specified by regulations made under this Act:</u></p> <p><u>_____ Provided that the surveyor or loss assessor shall, within the period as may be notified by the Authority, satisfy the requirements of clause (a) and clause (b) of sub-section (1), failing which, the surveyor or loss assessor shall be automatically disqualified to act as a surveyor or loss assessor.”.</u></p>	Surveyors or loss assessors.

**(4) No claim in respect of a loss which has occurred in India and requiring to be paid or settled in India equal to or exceeding an amount specified in the regulations by the Authority in value on any policy of insurance, arising or intimated to an insurer at any time after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Act, 2014, shall, unless otherwise directed by the Authority, be admitted for payment or settled by the insurer unless he has obtained a report, on the loss that has occurred, from a person who holds a licence issued under this section to act as a surveyor or loss assessor (hereafter referred to as "approved surveyor or loss assessor")**

**Provided that nothing in this sub-section shall be deemed to take away or abridge the right of the insurer to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor.**

**(5) The Authority may, at any time, in respect of any claim of the nature referred to in sub-section (4), call for an independent report from any other approved surveyor or loss assessor specified by him and such surveyor or loss assessor shall furnish such report to the Authority within such time as may be specified by the Authority or if no time limit has been specified by him within a reasonable time and the cost of, or incidental to, such report shall be borne by the insurer.**

**(6) The Authority may, on receipt of a report referred to in sub-section (5), issue such directions as it may consider necessary with regard to the settlement of the claim including any direction to settle a claim at a figure less than, or more than, that at which it is proposed to settle it or it was settled and the insurer shall be bound to comply with such directions:**

**Provided that where the Authority issues a direction for settling a claim at a figure lower than that at which it has already been settled, the insurer shall be deemed to comply with such direction if he satisfies the Authority that all reasonable steps, with due regard to the question whether the expenditure involved is not disproportionate to the amount required to be recovered, have been taken with due despatch by him:**

**Provided further that no direction for the payment of a lesser sum shall be made where the amount of the claim has already been paid and the Authority is of opinion that the recovery of the amount paid in excess would cause undue hardship to the insured:**

	<p><b>Provided also that nothing in this section shall relieve the insurer from any liability, civil or criminal, to which he would have been subject but for the provisions of this sub-section.</b></p> <p><b>(7) No insurer shall, after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Act, 2014, pay to any person any fee or remuneration for surveying, verifying or reporting on a claim of loss under a policy of insurance unless the person making such survey, verification or report is an approved surveyor or loss assessor.</b></p> <p><b>(8) Where, in the case of a claim of less than the amount specified in sub-section (4) in value on any policy of insurance it is not practicable for an insurer to employ an approved surveyor or loss assessor without incurring expenses disproportionate to the amount of the claim, the insurer may employ any other person (not being a person disqualified for the time being for being employed as a surveyor or loss assessor) for surveying such loss and may pay such reasonable fee or remuneration to the person so employed as he may think fit.</b></p> <p><b>(9) The Authority may in respect of any claim of value of less than the amount specified in sub-section (4) on an insurance policy, if the claim has not been or is not proposed to be reported upon by a surveyor or loss assessor, direct that such claim shall be reported upon by an approved surveyor or loss assessor and where the Authority makes such direction, the provisions of sub sections (5) and (6) shall apply in respect of such claim.</b></p> <p><b>(10) Where, in relation to any class of claims, the Authority is satisfied that it is customary to entrust the work of survey or loss assessment to any person other than a licensed surveyor or loss assessor, or it is not practicable to make any survey or loss assessment, it may, by an order, exempt such class of claims from the operation of this section.</b></p>	
	<p><b>87.</b> For sections 64V and 64VA of the Insurance Act, the following sections shall be substituted, namely:—</p>	<p>Substitution of new sections for sections 64V and 64VA.</p>
	<p>“64V. (1) For the purpose of ascertaining compliance with the provisions of section 64VA, assets shall be valued at value not exceeding their market or realisable value and certain assets may be excluded by the Authority in the manner as may be specified by the regulations made in this behalf.</p> <p>(2) A proper value shall be placed on every item of liability of the insurer in the manner as may be specified by the regulations made in this behalf.</p>	<p>Assests and liabilities how to be valued.</p>

	<p>(3) Every insurer shall furnish to the Authority along with the returns required to be filed under this Act, a statement, certified by an Auditor, approved by the Authority, in respect of general insurance business or an actuary approved by the Authority in respect of life insurance business, as the case may be, of his assets and liabilities assessed in the manner required by this section as on the 31st day of March of each year within such time as may be specified by regulations.</p>	
	<p>64VA. (1) Every insurer and re-insurer shall at all times maintain an excess of value of assets over the amount of liabilities of, not less than fifty per cent. of the amount of minimum capital as stated under section 6 and arrived at in the manner specified by the regulations.</p> <p>(2) An insurer or re-insurer, as the case may be, who does not comply with subsection (1), shall be deemed to be insolvent and may be wound-up by the court on an application made by the Authority.</p> <p>(3) The Authority shall by way of regulation made for the purpose, specify a level of solvency margin known as control level of solvency on the breach of which the Authority shall act in accordance with the provisions of sub-section (4) without prejudice to taking of any other remedial measures as deemed fit:</p> <p style="padding-left: 40px;">Provided that if in respect of any insurer the Authority is satisfied that either by reason of an unfavourable claim experience or because of a sharp increase in the volume of new business, or for any other reason, compliance with the provisions of this sub-section shall cause undue hardship to the insurer, it may direct that for such period and subject to such conditions as it may specify, the provisions of this sub-section shall apply to that insurer with such modifications provided that such modifications shall not result in the control level of solvency being less than what is stipulated under sub-section (1).</p> <p>(4) If, at any time, an insurer or re-insurer does not maintain the required control level of solvency margin, he shall, in accordance with the directions issued by the Authority, submit a financial plan to the Authority, indicating a plan of action to correct the deficiency within a specified period not exceeding six months.</p> <p>(5) An insurer who has submitted a plan, as required under sub-section (4), the Authority shall propose modifications to the plan, if the Authority considers the same inadequate, and in such an eventuality, the Authority shall give directions, as may be deemed necessary, including direction in regard to transacting any new business, or, appointment of an administrator or both.</p> <p>(6) An insurer or re-insurer, as the case may be, who does not</p>	<p>Sufficiency of assets.</p>

	<p>comply with the provisions of sub-section (4) shall be deemed to have made default in complying with the requirements of this section.</p> <p>(7) The Authority shall be entitled at any time to take such steps as it may consider necessary for the inspection or verification of the assets and liabilities of any insurer or re-insurer, or for securing the particulars necessary to establish that the requirements of this section have been complied with as on any date, and the insurer or re-insurer, as the case may be, shall comply with any requisition made in this behalf by the Authority, and in the event of any failure to do so within two months from the receipt of the requisition, the insurer or re-insurer, as the case may be, shall be deemed to have made default in complying with the requirements of this section.</p> <p>(8) In applying the provisions of sub-section (1) to any insurer or re-insurer, as the case may be, who is a member of a group, the relevant amount for that insurer shall be an amount equal to that proportion of the relevant amount which that group, if considered as a single insurer, would have been required to maintain as the proportion of his share of the risk on each policy issued by the group bears to the total risk on that policy:</p>	
	<p>Provided that when a group of insurers ceases to be a group, every insurer in that group who continues to carry on any class of insurance business in India shall comply with the requirements of sub-section (1) as if he had not been an insurer in a group at any time:</p> <p>Provided further that it shall be sufficient compliance of the provisions of the foregoing proviso if the insurer brings up the excess of the value of his assets over the amount of his liabilities to the required amount within a period of six months from the date of cessation of the group:</p> <p>Provided also that the Authority may, on sufficient cause being shown, extend the said period of six months by such further periods as it may think fit, so, however that the total period may not in any case exceed one year.</p> <p>(9) Every insurer shall furnish to the Authority return giving details of solvency margin in such form, time, manner including its authentication as may be specified by the regulations."</p>	
	<p><b>88.</b> For section 64VC of the Insurance Act, the following section shall be substituted, namely:—</p>	<p>Substitution of new section for section 64VC.</p>
	<p>“64VC. No insurer shall, after the commencement of the Insurance (Amendment) Act, 1968, open a new place of business or close a place in India or outside India or change otherwise than within the same city, town or village, the location of an existing place of business situated in India or outside India,</p>	<p>Restrictions on opening of new place of business.</p>

	except in the manner as may be specified by regulations.”.	
	<b>89.</b> PART III and IIIA of the Insurance Act, shall be omitted.	Omission of Part III and IIIA.
	<b>90.</b> PART IV of the Insurance Act, shall be omitted.	Omission of Part IV.
	<b>91.</b> In section 102 of the Insurance Act, for the words “not exceeding five lakh rupees for each such failure and punishable with fine”, the words “ of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less” shall be substituted.	Amendment of section 102.
	<b>92.</b> For sections 103 and 104 of the Insurance Act, the following sections shall be substituted, namely:—	Substitution of new sections for sections 103 and 104.
	“103. If a person carries on the business of insurance without obtaining a certificate of registration under section 3, he shall be liable to a fine not exceeding rupees twenty-five crores and with imprisonment which may extend to ten years.	Penalty for carrying on insurance business in contravention of section 3.
	104. If a person fails to comply with the provisions of section 27, section 27A, section 27B, section 27D and section 27E, he shall be liable to a penalty not exceeding twenty-five crore rupees.”.	Penalty for contravention of sections 27, 27A, 27B, 27D and 27E.
	<b>93.</b> In section 105 of the Insurance Act, for the words “not exceeding two lakh rupees for each such failure”, the words “not exceeding one crore rupees ” shall be substituted.	Amendment of section 105.
	<b>94.</b> For sections 105B and 105C of the Insurance Act, the following sections shall be substituted, namely :—	Substitution of new sections for sections 105B and 105C.
	“105B. If an insurer fails to comply with the provisions of section 32B, section 32C and section 32D, he shall be liable to a penalty not exceeding twenty-five crore rupees.	Penalty for failure to comply with sections 32B, 32C and 32D.
	105C. (1) For the purpose of adjudication under <u>sub-section (2) of section 2CB, sub-section (4) of section 34B sub-section (3) of section 40, sub-section (2) of section 41, sub-sections (4) and (5) of section 42, sub-sections (8) and (9) of section 42D, section 52F</u> and section 105B, the Authority, shall appoint any officer not below the rank of a Joint Director <b>or an equivalent officer</b> to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard.  (2) Upon receipt of the inquiry report from the officer so appointed, the Authority after giving an opportunity of being	Power to adjudicate.

	<p>heard to the person concerned may impose any penalty provided in sections aforesaid.</p> <p>(3) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if on such inquiry, is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may recommend such penalty as he thinks fit in accordance with the provisions of any of those sections.</p>	
	<p>105D. While recommending the quantum of penalty under section 105C, the adjudicating officer and while imposing such penalty, the Authority shall have due regard to the following factors, namely:—</p> <p>(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;</p> <p>(b) the amount of loss caused to the policy-holders as a result of the default; and</p> <p>(c) the repetitive nature of default."</p>	Factors to be taken into account by the adjudicating officer.
	<p><b>95.</b> In section 106A of the Insurance Act, in sub-section (2)—</p> <p><u>(i) clauses (a), (b) and (f) shall be omitted;</u></p> <p><u>(ii) in clause (d), the words “or a provident society” shall be omitted.’.</u></p>	Amendment of section 106A.
	<b>96.</b> Sections 107 and 107A of the Insurance Act shall be omitted.	Omission of section 107 and 107A.
	<b>97.</b> For section 109 of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 109.
	“109. No court shall take cognizance of any offence punishable under this Act or any rules or any regulations made thereunder, save on a complaint made by an officer of the Authority or by any person authorised by it. ”.	Cognizance of offence.
	<b>98.</b> For section 110 of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 110.
	<p>"110. (1) Any person aggrieved—</p> <p>(a) by an order of the Authority made on and after the commencement of the Insurance Laws (Amendment) Act, 2014, or under this Act, the rules or regulations made thereunder, or</p>	Appeal to Securities Appellate Tribunal.

15 of 1992.	<p>(b) by an order made by the Authority by way of adjudication under this Act, may prefer an appeal to the Securities Appellate Tribunal having jurisdiction in the matter.</p> <p>(2) Every appeal <u>made</u> under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Authority is received by him and it shall be in such a form and be accompanied by such fees as may be prescribed:</p> <p style="padding-left: 40px;">Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.</p> <p>(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may after giving parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, conforming, modifying or setting aside the order appealed against.</p> <p>(4) The Securities Appellate Tribunal shall make available copy of order made by it to the Authority and parties.</p> <p>(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of appeal.</p> <p>(6) The procedure for filing and disposing of an appeal shall be such as may be prescribed.</p> <p>(7) The provision contained in section 15U, section 15V, section 15W, section 15Y and section 15Z of the Securities and Exchange Board of India Act, 1992 shall apply to the appeals arising out of the provisions of this Act, as they apply to the appeals under the Securities and Exchange Board of India Act, 1992.</p>	
	<b>99.</b> Section 110E of the Insurance Act, shall be omitted.	Omission of section 110E.
	<b>100.</b> Sections 110G and 110H of the Insurance Act, shall be omitted.	Omission of sections 110G and 110H.
	<b>101.</b> After section 110H of the Insurance Act, the following section shall be inserted, namely:—	Insertion of new section 110HA.
	“ <b>110HA.</b> Any penalty imposed by the Authority under this Act shall be recoverable as an arrear of land revenue.”.	Penalty to be recoverable as arrear of land revenue.
	<b>102.</b> In section 111 of the Insurance Act,—	Amendment of



	<p><u>(a) in sub-section (1), the words “or provident society” occurring at both the places shall be omitted;</u></p> <p><u>(b) in sub-section (2), in the proviso, the words “or to a provident society” shall be omitted.</u></p>	section 111.
	<b>103.</b> For section 113 of the Insurance Act, the following section shall be substituted, namely:—	Substitution of new section for section 113.
	<p>“113. (1) A policy of life insurance shall acquire surrender value as per the norms specified by the regulations.</p> <p>(2) Every policy of life insurance shall contain the formula as approved by the Authority for calculation of guaranteed surrender value of the policy.</p> <p>(3) Notwithstanding any contract to the contrary, a policy of life insurance under a non-linked plan which has acquired a surrender value shall not lapse by reason of non-payment of further premiums but shall be kept in force to the extent of paid-up sum insured, calculated by means of a formula as approved by the Authority, and contained in the policy, and the reversionary bonuses that have already been attached to the policy:</p>	Acquisition of surrender value by policy.
	<p>Provided that a policy of life insurance under a linked plan shall be kept in force in the manner as may be specified by the regulations.</p> <p>(4) The provisions of sub-section (3) shall not apply—</p> <p>(i) where the paid-up sum insured by a policy, inclusive of attached bonuses, is less than the amount specified by the Authority or takes the form of annuity of amount less than the amount specified by the Authority; or</p> <p>(ii) when the parties after the default has occurred in payment of the premium agree in writing to other arrangement.”.</p>	
	<p><b>104.</b> In section 114 of the Insurance Act,—</p> <p><u>(a) in sub-section (2)-</u></p> <p><u>(i) clause (aa) shall be omitted;</u></p> <p><u>(ii) after clause (aa) as so omitted, the following clause shall be inserted, namely:-</u></p> <p><u>“(aaa) the manner of ownership and control of Indian insurance company under sub- clause (b) of clause (7A) of section 2”;</u></p> <p><u>(iii) clause (c) and clause (f) shall be omitted;</u></p> <p><u>(iv) after clause (l), the following clauses shall be inserted, namely:-</u></p> <p><u>“(la) the manner of inquiry under sub-section (l) of section 105C;</u></p> <p><u>(lb) the form in which an appeal may be preferred under</u></p>	Amendment of section 114.

	<p><u>sub-section (2) and the fee payable in respect of such appeal and the procedure for filing and disposing of an appeal under sub-section(6) of section 110;</u></p> <p><u>(b) in sub-section (3), the words, brackets, figures and letters “or under sub-section (1) of section 64UB and every regulation made under sub-section (3) of section 64UB” shall be omitted.’.</u></p>	
	<p><b>105.</b> In section 114A of the Insurance Act, in sub-section (2),—</p> <p>(i) for clauses (a) and (aa), the following clause shall be substituted, namely:—</p> <p>"(a) manner of making application for registration and documents to be accompanied under sub-section (2) of section 3;"</p> <p>(ii) for clause (d), the following clause shall be substituted, namely:—</p> <p>"(d) such annual fee to the Authority and manner of payment under subsection (I) of section 3A;"</p> <p>(iii) after clause (d), the following clauses shall be inserted, namely:—</p> <p>"(da) such minimum annuity and other benefits to be secured by the insurer under section 4;</p> <p><u>(daa) determination of preliminary expenses that may be excluded for calculation of the stipulated paid-up equity capital for the insurers under sub-section (I) of section 6;</u></p> <p>(db) such equity capital and such forms of capital including hybrid capital required under sub-section (I) of section 6A;"</p> <p><u>(iv) clause (e) shall be omitted;</u></p> <p>(v) after clause (e), <u>as so omitted</u>, the following clause shall be inserted, namely:—</p> <p>"(ea) separation of account of all receipts and payments in respect of each classes and sub-classes of insurance business as required under sub-section (I) and sub-section (2A) of section 10; and its waiver under the said section;"</p> <p><u>(v) in clause (f), for the words, brackets, figures and letter “under sub-section (1A) of section 11”, the words, brackets and figures “under sub-section (1) of section 11” shall be substituted;</u></p> <p>(vii) for clause (g), the following clause shall be substituted, namely:—</p> <p>"(g) the manner in which an abstract of the report of the actuary to be specified and the form and manner in which the statement</p>	<p>Amendment of section 114A.</p>

referred to in section 13 shall be appended;"

(viii) after clause (g), the following clause shall be inserted, namely:-

"(ga) maintenance of records of policies and claims under clause (c) of sub-section (1) of section 14;

(gb) manner and form of issuance of policies in electronic form under sub-section (2) of section 14."

(ix) for clause (h), the following clause shall be substituted, namely:—

"(h) the fee for procuring a copy of return or any part thereof under subsection (I) of section 20;"

(x) for clause (i), the following clause shall be substituted, namely:—

"(i) investment of assets and further provisions regarding investments by an insurer and investment by insurers in certain cases under sections 27, 27A, 27B, 27C and time, manner and other conditions of investment of assets under section 27D;"

(xi) for clauses (ia), (ib), (ic), (id) and (ie), the following clauses shall be substituted, namely:—

"(ia) the form in which a return giving details of investments made, time and manner including its authentication under section 28;

(ib) the loans including the loans sanctioned to the full-time employees of the insurer under clause (a) of sub-section (3) of section 29;

(ic) the sum to be paid by the insurer to any person under section 31B;

(id) the obligation of insurer in respect of rural or social or unorganised sector and backward classes under section 32B and 32C;

(ie) the minimum percentage of insurance business in third party risks of motor vehicles under section 32D;"

(xii) for clause (j), the following clause shall be substituted, namely:—

"(j) the minimum information to be maintained by insurers or intermediary or insurance intermediary, as the case may be, in their books, the manner in which such information shall be maintained, the checks and other verifications in that connection and all other matters incidental thereto under sub-section (7) of

section 33;"

(xiii) after clause (j), the following clauses shall be inserted, namely:—

"(ja) the form in which balance-sheets in respect of the insurance business of each of the insurers concerned and the manner in which actuarial reports and abstracts in respect of the life insurance business are to be prepared under clauses (b) and (c) of sub-section (3) of section 35;

(jb) the manner of assessment of compensation under the proviso to sub-section (4A) of section 37A;

(jc) the fee to be charged by the insurer under sub-section (3) of section 39;

(\*\*\*)

(jd) the manner and amount of remuneration or reward to be paid or received by way of commission or otherwise to an insurance agent or an intermediary or insurance intermediary under section 40;

(je) the manner and form of expenses of management under sections 40B and 40C.";

(xiv) clauses (k) and (l), shall be omitted;

(xv) for clause (m), the following clause shall be substituted, namely:—

"(m) the requisite qualifications or practical training or examination to be passed for appointment as an insurance agent under clause (e) of sub-section (3) of section 42 and code of conduct for agents under sub-section (5) of section 42;

(xvi) clause (n), shall be omitted;

(xvii) for clause (o), the following clause shall be substituted, namely:—

"(o) the code of conduct under clause (h) of sub-section (3) of section 42;"

(xviii) clause (p), shall be omitted;

(xix) clause (va), shall be omitted;

(xx) in clause (vb), the words, brackets and figure "sub-section (2) of" shall be omitted;

(xxi) for clause (x), the following clauses shall be substituted,

	<p><u>namely:-</u></p> <p><u>“(x) academic qualifications and code of conduct for surveyors and loss assessors under sub-sections (1) and (2) of section 64UM;</u></p> <p><u>(xa) the period for which a person may act as a surveyor or loss assessor under sub-section (3) of section 64 UM;”.</u></p> <p>(xxii) clause (w), shall be omitted;</p> <p>(xxiii) for clause (y), the following clause shall be substituted, namely:—</p> <p>“(y) the manner of exclusion of certain assets under sub-section (1), the manner of valuation of liabilities under sub-section (2) and time for furnishing statement under sub-section (3) of section 64V;”;</p> <p>(xxiv) for clause (za), the following clause shall be substituted, namely:—</p> <p>“(za) the matters specified under sub-section (1) of section 64VA relating to sufficiency of assets;”;</p> <p>(xxv) after clause (zaa), the following clauses shall be inserted, namely:—</p> <p>“(zab) the form, time, manner including authentication of the return giving details of solvency margin under sub-section (9) of section 64VA;</p> <p>(zac) the manner of opening and closing places of business under section 64VC;”;</p> <p>(xxvi) after clause (zb), the following clause shall be added, namely:—</p> <p>“(zba) the norms for surrender value of life insurance policy under subsection (1) of section 113;”;</p>	
	<b>106.</b> In the Insurance Act, the Fifth Schedule, the Sixth Schedule and the Eighth Schedule shall be omitted.	Omission of Fifth , Sixth and Eighth Schedule.
	<b>CHAPTER III</b> <b>AMENDMENT TO THE GENERAL INSURANCE BUSINESS</b> <b>(NATIONALISATION) ACT, 1972</b>	
57 of 1972.	<b>107.</b> In the General Insurance Business (Nationalisation) Act, 1972, after section 10A, the following section shall be inserted, namely:—	Insertion of a new section after section 10A.
	"10B. The General Insurance Corporation and the insurance	Enhancement of equity capital of

	<p>companies specified in section 10A may, raise their capital for increasing their business in rural and social sectors, to meet solvency margin and such other purposes, as the Central Government may empower in this behalf:</p> <p style="text-align: center;"><u>Provided that the shareholding of the Central Government shall not be less than fifty one per cent. at any time."</u></p>	General Insurance companies.
57 of 1972.	<b>108.</b> Section 25 of the General Insurance Business (Nationalisation) Act, 1972 shall be omitted.	Omission of section 25.
	<p>CHAPTER IV AMENDMENT TO INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY ACT, 1999</p>	
41 of 1999.	<p><b>109.</b> In section 2 of the Insurance Regulatory and Development Authority Act, 1999, in sub-section (I),—</p> <p>(i) in clause (b), after the words "Development Authority", the words" of India", shall be inserted;</p> <p>(ii) <u>for clause (f), the following clause shall be substituted namely:—</u></p> <p><b>“(f) “Intermediary” or “insurance intermediary” includes insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, surveyors and loss assessors and such other entities, as may be notified by the Authority from time to time.”.</b></p>	Amendment of section 2.
41 of 1999.	<b>110.</b> In section 3 of the Insurance Regulatory and Development Authority Act, 1999, in sub-section (I), after the words “Development Authority” the words “of India” shall be inserted.	Amendment of section 3.
41 of 1999.	<b>111.</b> In section 16 of Insurance Regulatory and Development Authority Act, 1999, in sub-section (I), clause (c) shall be omitted.	Amendment of section 16.

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# ANNEXURES

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## **Annexure I**

### **Motions in the Rajya Sabha pertaining to the Select Committee**

*(Extracts from Rajya Sabha Parliamentary Bulletin Part-I)*

**(i) Motion for reference of the Insurance Laws(Amendment) Bill, 2008 to the Select Committee (dated the 14<sup>th</sup> August, 2014)**

Shri Arun Jaitley, Minister of Finance, Corporate Affairs and Defence, moved the following motion:-

“That the Bill, further to amend the Insurance Act, 1938, the General Insurance Business (Nationalisation) Act, 1972 and the Insurance Regulatory and Development Authority Act, 1999, as introduced in the Rajya Sabha, be referred to a Select Committee of the Rajya Sabha consisting of the following Members:—

1. Dr. Chandan Mitra
2. Shri Mukhtar Abbas Naqvi
3. Shri Jagat Prakash Nadda
4. Shri Anand Sharma
5. Shri B. K. Hariprasad
6. Shri Jesudasu Seelam
7. Shri Satish Chandra Misra
8. Shri K. C. Tyagi
9. Shri Derek O’ Brien
10. Dr. V. Maitreyan
11. Prof. Ram Gopal Yadav
12. Shri P. Rajeeve
13. Shri Kalpataru Das
14. Shri Naresh Gujral
15. Shri Rajeev Chandrasekhar

with instructions to report to the Rajya Sabha by the last day of the first week of the next Session”.

The motion was adopted.



- (ii) **Motion for Appointment to the Select Committee of Rajya Sabha on the Insurance Laws (Amendment) Bill, 2008** (dated the 25<sup>th</sup> November, 2014)

Shri Arun Jaitley, Minister of Finance, Minister of Corporate Affairs and Minister of Information and Broadcasting, moved the following Motion:—

“That Shri V. P. Singh Badnore and Shri Rangasayee Ramakrishna, Members, Rajya Sabha, be appointed to the Select Committee on Insurance Laws (Amendment) Bill, 2008, to fill the vacancies caused by resignations of Shri Jagat Prakash Nadda and Shri Mukhtar Abbas Naqvi from the membership of the Select Committee.”

The Motion was adopted.

**(iii) Motion for Extension of time for presentation of the Report of the Select Committee of Rajya Sabha on the Insurance Laws (Amendment) Bill, 2008(dated the 25<sup>th</sup> November, 2014)**

Dr. Chandan Mitra moved the following Motion:—

“That the time appointed for presentation of Report of the Select Committee on the Insurance Laws (Amendment) Bill, 2008, be extended upto 12th December, 2014 to present its report to the House”.

The following Members spoke:—

1. Shri P. Rajeeve
2. Shri Arun Jaitley, Minister of Finance, Minister of Corporate Affairs and Minister of Information and Broadcasting and Leader of the House
3. Shri Sitaram Yechury
4. Shri Anand Sharma.

Thereafter, the Motion was adopted.

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## Annexure II

### List of Non-official/organisation/association/institutions/individual who appeared before the Select Committee

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1. Dr. Amarnath Ananthanarayanan, Bharti AXA General Insurance Company Ltd.
2. Shri Rakesh Jain, Reliance General Insurance Co. Ltd.
3. Shri Manasije Mishra, Max Bupa Health Insurance Co. Ltd.
4. Shri Antony Jacob, Apollo Munich Health Insurance Company Ltd.
5. Shri Vijay kumar, Bajaj Allianz General Insurance Company Ltd.
6. Shri Amanulla Khan, All India Insurance Employees Association
7. Shri V. Ramesh, All India Insurance Employees Association
8. Shri S.B. Sreenivasa Chary, Life Insurance Agents Federation of India
9. Shri Shyamal Chakraborty, Life Insurance Agents Federation of India
10. Shri P. K. Dharamthok, General Insurance Employees' All India Association
11. Shri M. S. Upadhyay, General Insurance Employees' All India Association
12. Shri Sohanlal Kadel, Insurance Brokers Association of India
13. Shri A. K. Narang, Insurance Brokers Association of India
14. Shri Atul Deshpande, National Organisation of Insurance Workers
15. Shri M. A. Bapat, National Organisation of Insurance Workers
16. Shri N. Umesh Prasad, National Organisation of Insurance Workers
17. Shri Gautam Sen Gupta, National Federation of Insurance Field Workers of India
18. Shri Rajesh Kumar Gupta, National Federation of Insurance Field Workers of India
19. Mr Sanjiv Bajaj, Co-chair, CII National Committee on Insurance & Pensions & Managing Director, Bajaj Financial Services Ltd,
20. Mr Rajesh Sud, Managing Director & Chief Executive Officer, Max Life Insurance Company Ltd
21. Mr S. Sreenivasan, President, Finance Bajaj Financial Services Ltd
22. Ms Anuradha Kapoor Salwan, Director, Financial Services, CII
23. Mr Marut Sen Gupta, Deputy Director General, CII
24. Shri Sandeep Bakhshi, Member, FICCI's Insurance and Pensions Committee and Managing Director & CEO, ICICI -Prudential Life Insurance Co. Ltd.
25. Shri Tarun Chugh, Member, FICCI's Insurance and Pensions Committee & MD and CEO, PNB MetLife India Insurance Co Ltd.
26. Dr. A. Didar Singh, Secretary General, FICCI
27. Ms. Jyoti Vij, Deputy Secretary General, FICCI
28. Ms. Nirupama Soundararajan, Additional Director and Team Lead-Financial Sector Division, FICCI
29. Shri Prem Chandra Shukla (Ex Council Member)
30. Shri R.K.Elango (Member, Standing Committee & Ex-President, IISLA)
31. Shri Ashok Kumar (Member, Standing Committee & Ex-Secretary, IISLA)
32. Shri Lalit Gupta (Ex-Council Member, IISLA )
33. Shri J.L.Tiku (Ex-Council Member, IISLA )
34. Shri V.Manickam, Secretary General
35. Shri Sandeep Bakhshi, CEO, ICICI Prudential life Insurance Company
36. Shri Arijit Basu, CEO, SBI Life Insurance Company
37. Shri K.S.Gopalakrishnan, CEO, Aegon Religare life Insurance Company
38. Shri Sandeep Ghosh, CEO, Bharti-AXA life Insurance Company
39. Shri Anup Rau, CEO, Reliance life
40. Shri M. Ramaprasad, Chairman, General Insurance Council (Mumbai)
41. Shri R. Chandrasekaran, Secretary General, General Insurance Council

42. Shri G. Srinivasan, Chairman-cum-Managing Director, New India Assurance Co. Ltd.
43. Shri Bhargav Dasgupta, MD & CEO, ICICI Lombard General Insurance Co. Ltd.
44. Shri S.S. Gopalarathnam, MD & CEO, Cholamandalam MS General Insurance Co. Ltd
45. Shri Antony Jacob, CEO, Apollo Munich Health Insurance Co. Ltd.
46. Shri S.K.Roy, Chairman, Life Insurance Corporation
47. Shri G.Srinivasan, Chairman, New India Assurance Co. Ltd.
48. Shri A.V.Girija Kumar, CMD, National Insurance Co. Ltd.
49. Shri Milind Kharat, CMD, United India Insurance Co. Ltd
50. Shri A.K.Saxena, CMD, Oriental Insurance Co. Ltd.
51. Shri A.K.Roy, CMD, General Insurance Corporation of India Ltd.
52. Shri P.J.Joseph, CMD, AICL
53. Shri Poddar, GM, Agricultural Insurance Co. Ltd.
54. Ms. Rosemary Beaver, Head of International Regulatory Affairs
55. Shri Arun Agarwal, Lloyd's General Representative in India
56. Shri Rajesh Dalmia, Institute of Actuaries of India
57. Shri Vivek Jalan, Institute of Actuaries of India
58. Shri Sanjeeb Kumar, Institute of Actuaries of India
59. Shri Sandeep Malik, CEO, ARS Asia
60. Shri Rakesh Malik, CEO, Aon Global Insurance Brokers Pvt. Ltd.
61. Shri Ravneetsingh Gill, MD & CEO, Deutsche Bank
62. Shri S.B. Mathur, Former Chairman, LIC
63. Ms. Mirai Chatterjee, Chairperson, National Insurance Vimo Sewa Co-operative Ltd.
64. Shri A.V. Nachane, General Secretary, All India LIC Employees Federation
65. Shri H Abdur Raqeeb, General Secretary, Indian Centre for Islamic Finance
66. Shri Subhash Chandra Agrawal, RTI Activist
67. Ms. Renna Banerjee, GM, Reserve Bank of India
68. Shri Andrew Joseph, Jt. Legal Advisor, Reserve Bank of India
69. Shri Raman, Member (Whole time), Securities & Exchange Board of India
70. Shri J. Ranganayakulu, ED, Securities & Exchange Board of India
71. Shri Ananta Barua, ED, Securities & Exchange Board of India
72. Shri T.S. Vijayan, Chairman, Insurance Regulatory Development Authority
73. Shri R.K. Nair, Member (F&A), Insurance Regulatory Development Authority
74. Shri M. Ramaprasad, Member (Non Life), Insurance Regulatory Development Authority
75. Shri D.D. Singh, Member (Distribution), Insurance Regulatory Development Authority
76. Shri J. Harinarayan, Ex Chairman, Insurance Regulatory Development Authority
77. Shri G.N. Bajpai, Ex Chairman, LIC
78. Shri Biswajit Mohanty, Ex MD & CEO, SBI Pension Fund
79. Shri K.N.Bhandari, Ex CMD, New India Assurance Company Ltd.
80. Shri B. Chakraborty, Ex CMD, New India Assurance Company Ltd.
81. Shri Sudhin Roy Chowdhury, Ex whole time Director, IRDA
82. Shri Sunil Mehta, MD, SPM Capital Advisors Ltd.
83. Shri S.K.Roy, Chairman, LIC

84. Shri S.B. Mainak, MD, LIC
85. Shri V.K.Sharma, MD, LIC
86. Smt. Usha Sangwan, MD, LIC
87. Ms. Kiran Sahdev, Executive Director, LIC
88. Shri S.Mohanty, Chief (Legal), LIC
89. Shri A.K.Roy, CMD, GIC
90. Shri N. Mohan, GM, GIC
91. Shri G.C.Gaylong, GM, GIC
92. Shri P.Dutta, GM, GIC
93. Shri Y.Ramulu, GM, GIC
94. Shri B.Balachandra, GM, GIC
95. Smt Alice Vaidyan, GM, GIC
96. Shri A.V.Belarmin, Representative, LIC Agents organisation of India
97. Shri P.G. Dileep, Representative, LIC Agents organisation of India
98. Shri Joy Xavier, Representative, LIC Agents organisation of India
99. Shri Prabodh Thakker, President, Indian Merchants Chamber
100. Shri Arun Agarwal, Representative, Indian Merchants Chamber
101. Shri Jitendra Sanghvi, Representative, Indian Merchants Chamber
102. Shri Rangam Bir, Regional GM, ALLIANZ
103. Shri David Wolf, Representative AEGON
104. Shri Aioan Pallister, COO & Deputy CEO, Asia Insurance Australia Group
105. Shri Soumya Ghosh, Representative Albright Stonebridge Group

**List of Government officials who appeared before the Select Committee:**

1. Dr. Gurdial Singh Sandhu, ex-Secretary, Department of Financial Services (M/o Finance)
2. Smt. Snehlata Shrivastava, Additional Secretary, Department of Financial Services(M/o Finance)
3. Shri Anup Wadhawan, Joint Secretary, Department of Financial Services(M/o Finance)
4. Shri N. Srinivasa Rao, Director, Department of Financial Services (M/o Finance)
5. Shri Amitabh Kant, Secretary, Department of Industrial Policy and Promotion (M/o Commerce & Industry)
6. Shri Atul Chaturvedi, Joint Secretary, Department of Industrial Policy and Promotion (M/o Commerce & Industry)
7. Shri M.J. Joseph, Additional Secretary, Ministry of Corporate Affairs
8. Dr. Sanjay Singh, Secretary, Legislative Department (M/o Law & Justice)
9. Dr. G. Narayana Raju, Additional Secretary, Legislative Department (M/o Law & Justice)
10. Dr. M. Vijayawargiya, Joint Secretary, Legislative Department (M/o Law & Justice)
11. Shri R. Sreenivas, Deputy Legislative Counsel, Legislative Department (M/o Law & Justice)

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## Annexure III

### Note on the Insurance Laws (Amendment) Bill, 2008

Derek O'Brien, MP  
Dated 3<sup>rd</sup> December, 2014

Section 2(7A)(b) of the Insurance Act 1938 provides for the foreign joint venture partner in an Indian Insurance Company to hold up to 26% equity stake. One of the principal objectives of the amendment Bill is to raise foreign equity participation in Indian insurance companies from the existing level of 26% to 49%.

The government has argued before us that India is one of the largest insurance markets in the world with one of the lowest insurance penetration and density and that this vast potential remains untapped. An increase in foreign shareholding limit will facilitate investment and growth in the insurance sector, improve rural insurance penetration and build a more balanced product portfolio which will benefit the people of India. *Implicit in this logic is the assertion that the Indian partners in insurance ventures—both in the life insurance and general insurance—do not have the resources to invest in the expansion of the business.*

*The stance of the Government is no different from that in the year 2000 when the Insurance sector was opened up for the private sector. It was hoped that it will provide better insurance coverage and will help build long term resources for financing infrastructure in the country.*

The then Finance Minister had stated in Parliament that allowing FDI will help improve insurance coverage in the country.

“We have kept it because we want technology to come into this country in this sector...Mr. Deputy-Speaker, Sir, the world has progressed. There are all kinds of insurance products which are being marketed in various countries of the world, which are unfortunately not yet available in India. It is our belief that with this opening up, it will be possible for those insurance products to come up in this country and provide both depth and weight to the market...through a larger coverage in the insurance sector, it is possible to cover a larger segment of the population through health insurance”

Fourteen years ago, FDI was sold to us as the panacea for all the problems of India's insurance sector. Once more we're being told that increasing FDI will solve all our problems. But what has happened in the last fourteen years? *I will address all of the claims about the benefit accrued from FDI one by one.* In the last fourteen years only Rs 7,818 crores has come in as FDI. LIC's contribution of dividend to the government in the last year was alone was Rs 1400 crores. These are numbers we should keep in mind as we contemplate increasing the FDI cap.

#### I. Insurance Penetration

Let me address the big issue of insurance penetration first.

- According to data made available us to by the Ministry, insurance penetration in India has hardly improved over the last fourteen years. *We've gone from 2.71% in 2001 to only 3.9% in 2013. The Ministry of Finance has itself admitted to us that there is no direct correlation between FDI and insurance penetration.* [Office memorandum dated November 7, 2014].

- If there is no direct correlation, why is the government pushing FDI as the lone solution to low insurance penetration? Should we not be looking for an answer elsewhere, in other regulatory mechanisms in the insurance sector?

## **II. Technology**

The other stated advantage is, of course, technology.

- The government has stated that 49% FDI will bring in actuarial expertise, system support, investment support and other functional support. We live in an open, globalised world. Is this technology so superior that we cannot absorb and apply it on our own initiative? Are these services unavailable to us at 26%?
- That FDI is not essential for improving technology and competitiveness is established by the performance of LIC which has raised its technological standards through in-house development of IT.
- LIC's performance in claims and settlement is the best in the world.
- The efficacy of FDI as a catalyst depends on the extent to which the technology and know-how it contributes are assimilated and dispersed in the economy. Optimum level of FDI could then be defined as that level of FDI which maximises social rates of return. Social rates of return to FDI would be a function of not only the quality of FDI, signified by the nature and extent of ownership advantages possessed by the foreign firms but also the ability of local management and labour to assimilate the technology and know-how.
- Our focus should be on improvement in investment environment and the functioning of markets. This will result in efficient overall investment and more capital inflow.

## **III. Investments in infrastructure**

One reason for allowing greater FDI is the promise of greater investment in infrastructure.

- Our experience shows that opening up the insurance sector has only given us increased investment in ULIPs and the stock market. The total investments of private life insurance companies are Rs 3,41,902 crore. It is worth noting that 66.7% of these funds amounting to Rs 2,28,184 crore are from unit linked insurance plans and major portion of this has been invested in the equity markets. Their investment in infrastructure is only Rs 60,000 crore, which is only 25% of what they invest in ULIPs.
- Compare this with LIC which has invested Rs 14,02,991 crore, of which only 8% is invested in ULIPS.
- ULIP are totally stock market focussed and the diversification of funds for infrastructure investment is at a very low level. As a result there is no social security or security of savings.
- The government has failed to give us any convincing data that 26% FDI has led to greater investment in infrastructure or that increasing it to 49% will lead to a greater percentage of funds being invested in infrastructure.

#### IV. Performance of FDI at 26%

To sum up, the goals of privatising insurance and allowing FDI at 26% have not been met:

- no significant spurt in insurance coverage
- product portfolios of public sector insurers are as good as the private sector
- private sector investments are in high risk securities
- public sector insurers continue to be major investors in public infrastructure

Government officials have repeatedly asserted before us how important FDI is for the insurance sector. But merely making an assertion is not enough. They have failed to establish that increasing Foreign Direct Investment in the insurance sector is a *pre-requisite* for the continued growth and development of the sector. I recognise that need for additional funds in the insurance sector but am constrained to note that the justification provided for relying on foreign equity capital to meet this end has not been convincing.

The government has made no better case before us than it had made before the Standing Committee under Mr. Yashwant Sinha in 2011 and I can't help but agree with the conclusion of the Standing Committee, which I quote -

*“Also, the public sector general insurers have expressed confidence in raising the capital projected as required by IRDA, and as per the Ministry’s submission to the Committee, the double digit growth of the Indian insurance sector could be maintained during the global financial crisis of 2008, because 74% of the paid-up equity capital was held by Indian promoters and only 26% by the foreign promoters”, which reduced the demands on the foreign promoters.*

....

*The Committee would, therefore, consider it prudent to seriously pursue the alternate route of tapping the market for raising the capital required for the sustenance and growth of the sector. Formulating the rules / regulations for enabling the companies to tap the domestic market, combined with the other capital raising options proposed to be made available in terms of the amendment proposals of the Bill, would, in the opinion of the Committee help in meeting the growth needs of the sector.”*

- V. I have addressed the three major advantages we've been told will accrue from increasing the FDI cap. Let me now come to the risks associated with increasing FDI which are more obvious and immediate.
- *The recent global recession has seen the world's largest Insurance companies collapse. Increase in FDI will only lead to more speculative investment and will open us up to instabilities in international markets which we have so far been insulated from.*
  - Insurance is, by definition, a long-term affair. *Unlike most other products, an insurance policy that is “sold” today does not result in immediate tangible gains to the buyer. The test of the efficacy of an insurance product happens only when the policy matures or the purchaser makes a claim based on the policy.* Thus, the price of the policy is only one of the factors a prospective purchaser considers when evaluating sellers. *The “track record” of an insurance company is one of the most critical factors that a prospective customer considers before buying an insurance policy.*



- Last year (2013-14), the LIC enjoyed a 75 per cent market share of the total first premium earnings mobilised by all the insurers in the life insurance business, amounting to Rs.90,000 crore. ***A notable feature of life insurance policies sold by private insurers is that about 80 per cent of the policies are unit-linked, implying that returns to the investor are closely tied to the performance of the stock markets, surely not the idea of insurance for an average Indian.***
- But even more striking was the fact that last year the LIC had a market share of more than 84 per cent of all the life insurance policies sold in India, implying that the average ticket of the policies it sold was smaller than those of its private sector rivals. Average annual premium for policy issued by private insurers is about Rs 60,000 compared to Rs 9000 by LIC. Thus, LIC was more effective in widening the reach of life insurance in the country.
- LIC settles 90.86% of its claims, while the private sector repudiates about 11%. LIC has a lapsation ratio of only 5%, compared to 42-75% of private insurers.

## VI. The impact of increasing FDI to 49%

- ***We are told that we expect Rs 26,950 crores as FDI in the next 5 years if we increase the cap. How is this going to happen if we've only received 8000 crores in the last fourteen years? How are we going to get more than 3 times of what we have received in the last fourteen years in the next five years?***
- IRDA has worked out the capital requirements at Rs 44500 crores in the next 5 years. They have assumed a GDP growth rate of 7% per annum and life insurance penetration of 6% from the current 3.17%. [Office memo, Ministry of Finance, November 7, 2014]
- ***Let me repeat this. To arrive at the capital requirement, IRDA has assumed that insurance penetration will increase by 3% in the next 5 years. In the last fourteen years, insurance penetration has increased less than 1%. They are assuming an increase of 3% in the next five years. Are these numbers even realistic?***
- In its Office memo dated 21<sup>st</sup> October, 2014 the Ministry of Finance states :
 

***"..the amount raised by capital markets last year (2012-13) is nearly double the amount required by the insurance companies over the next 5 years. The capital will be difficult to raise from the capital markets given that the insurance companies are expected to show losses for the next 5 years. Therefore it may be difficult to attract investors who invest in loss making companies"***
- It may be difficult to attract investors who invest in loss making companies. Then how are these estimates of expected FDI inflow being arrived at? ***Why would a foreign investor want to invest in these companies? How is the IRDA projecting a 3% insurance penetration increase in the next 5 years when these companies are expected to make losses?***
- ***Indian ownership and control:*** The government has taken great pains to assure us that the proposed increase of foreign investors' stake to 49 per cent will not enable them to control the Indian joint venture.

- *My question then is why would they bring in more capital if they cannot have a greater say? Add to this the fact that these companies are claimed to be loss making.*
- *It is widely apprehended that the proposed increase in FDI is meant to allow the Indian entities to liquidate a portion of their stake and earn profits that would be several multiples of their original investment.*
- When we asked the Ministry about the impact of allowing 49% FDI, this was the response. I quote from the Ministry of Finance's Office Memorandum dated October 10, 2014 –

*“While we have not done any specific analysis of the potential impact of allowing an increase in FDI, various industry sources have estimated an inflow of Rs 50 – 55 thousand crores over the next ten years. However, a lot will depend on the conditions subject to which the increase in the FDI limit will be allowed”*

- *While we have not done any specific analysis?* Am I to understand that India will increase the FDI cap to 49% and open itself up to the risks of vagaries in the international markets without the Ministry having done any specific analysis. Is this committee supposed to make a decision on the basis of some “*industry sources*” whose names and credibility is unknown to us? I regretfully submit that I cannot condone and become part of this cavalier approach to lawmaking.

## VII. **Indian Insurers are fund starved**

- The argument that Indian insurance ventures are starved of capital is belied by other data, which do not reveal a clear relationship between their capital base and the extent of their business.
- For instance, the private insurance company Bajaj Alliance had a total capital base (including reserves) of Rs.4,844 crore at the end of March 2013; it earned Rs.6,893 crore through the sale of premiums during the year, implying that its earnings were 1.42 times its capital base.
- Now, compare the Bajaj Alliance case with that of Bharati AXA, which earned Rs.745 crore as premiums but had a capital base of almost Rs.2,000 crore in the same year.
- HDFC Standard, with a capital base of only Rs.2,204 crore, earned more than five times its capital base during the same year.
- These three cases illustrate that an expansion of the capital base of insurance companies does not automatically result in an expansion of business
- Insurance, unlike manufacturing, is not heavily capital intensive. *Witnesses before this committee (unions) have told us that the binding factor hindering the growth of the Indian insurance industry is not the shortage of capital but the regulatory framework which has been set too tightly and rigidly.* It has been argued before us that it is the high solvency margins, which have deliberately been set high to require high capital infusion, that are impeding the growth of the insurance sector.

- *The Annual Report of IRDA states that in 2012-13 life insurance companies reported a net profit of Rs 6948 crore up from Rs 5974 crore in 2011-12. 6 out of 23 private companies have reported profits. 5 of them have paid dividends of Rs 1155.95 crore to the shareholders in 2012-13.* In these circumstances, it is difficult to believe that the low capital base of companies is holding back the Indian insurance sector.

#### **VIII. On Foreign Institutional Investors**

- On the issue of FIIs, I want to quote from the Office Memorandum of the Ministry of Finance dated November 7, 2014.

*“IPOs may not be the best route for raising capital in the insurance sector, which are substantially subscribed to by FIIs and Financial Institutions, as FIIs face constraints by way of sectoral foreign equity caps etc and many financial institutions like banks have already tied up with existing insurance companies.”*

- I find an inherent inconsistency in the Ministry’s stand where on the one hand it says that FIIs are not the best option for the Insurance industry but on the other hand it is making provisions for FIIs to invest in insurance in this Bill.

There is obvious internal confusion the government’s stand. The ministry’s responses reveal a blind determination to bring in FDI and to justify at it any cost, even at the risk of contradicting itself.

For all these reasons, in addition to those articulated by the Standing Committee, that I am opposed to Clause 3(iv) and related clauses of this Bill.

Nobel laureate economists like Joseph Stiglitz have cautioned against excessive dependence on foreign capital and have advised leveraging the domestic savings for the development and growth of the economy. This is what the Standing Committee also recommended and is something we should give greater thought to rather than employing the shortcut method of FDI whose efficacy is unknown to us.

Sd/-  
**Derek O'Brien, MP**

## **Note on the Insurance Laws (Amendment) Bill, 2008**

**Derek O'Brien, MP  
Dated 8<sup>th</sup> December, 2014**

### **I. CLAUSE 3 – INCREASING FDI TO 49%**

#### **A. Substantive recommendations towards the Bill**

##### **FDI Cap at 49%**

- As discussed before this committee, the objectives for which FDI was raised to 26% in 2000 have not been met. The language in this Bill does not ensure that the objective of increasing investments in insurance and increasing insurance penetration will be met.
- There is a widespread apprehension that the proposed increase in FDI will allow Indian entities to liquidate a portion of their stake and earn profits that would be several multiples of their original investment, without any fresh capital flowing into the insurance sector.
- The Bill does not address this possibility and should be modified accordingly.

##### **Foreign Institutional Investors (FIIs)**

- Portfolio Investments are different from FDI, and are governed by the FPI policy
- This Bill conflates FDI and FPI and sets a composite cap.
- Portfolio investments can be liquidated and repatriated very quickly. They can cause serious instability in the economy.
- The words “including portfolio investors” should be deleted from the Bill.

##### **Indian Ownership and Control**

- The explanation defining “control” (pg 34) is redundant as the FDI Policy and the Companies Act already suitably define it.
- Bill should state – *‘ownership and control as defined in the Companies Act’*
- In a situation where the Indian shareholding (51%) is split across various entities, the Indian shareholders will need to act a group to exercise rights

associated with control against the foreign shareholder, who may well be the largest single shareholder (49%).

Consider possibility of mismanagement of these companies, extensive litigation.

## **B. Suggestions towards the content and language of the Report**

- Increasing the FDI cap is the most contested aspect of the Bill, and it is the duty of the Committee to paint a complete picture. The draft report presents a one-sided account, which may be misleading.
- Insurance penetration: While the report (pg 33) mentions the increase in the number of insurance companies from 2000 and the growth rate in the insurance sector, it completely omits the fact that insurance penetration has increased only by 1% in the last fourteen years.
- Insurance penetration is a more appropriate indicator on the performance of FDI when compared to the growth rate of insurance companies, which reveals no information about how people have benefitted.
- Capital Requirement: The Standing Committee has noted that the capital requirement of Rs 60-66,000 crores for the Insurance Sector was only a *general estimate and not very accurate*.
- Where this Committee notes that the capital requirement is Rs 55,000 crores (pg 33) in the next five years, it must provide the basis for these estimates.
- Other omissions from the Report:
  - Data suggesting the lack of relationship between capital base and profitability of insurance companies
  - Investment patterns of private insurers – likely that any fresh capital will become invested in ULIPs.
  - High rates of policy repudiation in the private sector
  - The quantum of FDI that has come in since 2000

## **II. CLAUSE 48 – REGULATION OF PAYMENT OF COMMISSION FOR PROCURING BUSINESS**

- The proviso suggested is vague and unclear, does not create a binding duty on the IRDA, nor guarantees the rights of agents in any manner. The recommendation should be made without suggesting the addition of the proviso to the Bill.

*“Provided that while making regulations under Section 40(1) and 40(2) of the Act, IRDA shall take into account the interests of the agents and other intermediaries concerned.”*

**III. CLAUSE 21 – MAINTENANCE OF RECORDS OF POLICIES**

- Along with maintenance of records, the Clause requires that records of policies and claims be displayed on the website of the insurer as well.
- IRDA had raised a valid concern about the privacy of the policy holder, especially in matters of health insurance etc. IRDA recommended the deletion of the expression ‘and displayed on the website’ from the clause.
- Committee should recommend accordingly.

Sd/-  
**Derek O'Brien, MP**

**I**  
**FIRST MEETING**

The Committee met at 3:00 P.M. on Thursday, the 4<sup>th</sup> September, 2014 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

**PRESENT**

1. **Dr. Chandan Mitra** - *Chairman*

**MEMBERS**

2. Shri Mukhtar Abbas Naqvi
3. Shri Jagat Prakash Nadda
4. Shri Anand Sharma
5. Shri B.K. Hariprasad
6. Shri Jesudasu Seelam
7. Shri Satish Chandra Misra
8. Shri K.C. Tyagi
9. Shri Derek O'Brien
10. Dr. V. Maitreyan
11. Shri P. Rajeev
12. Shri Kalpataru Das
13. Shri Naresh Gujral
14. Shri Rajeev Chandrasekhar

**SECRETARIAT**

- Shri M.K. Khan - *Joint Secretary*  
Shri Rakesh Naithani - *Joint Director*  
Shri Rajendra Tiwari - *Deputy Director*  
Shri Goutam Kumar - *Assistant Director*  
Shri Ranajit Chakraborty - *Committee Officer*

2. At the outset, the Chairman welcomed the Members to the first meeting of the Select Committee, constituted to consider the Insurance Laws (Amendment) Bill, 2008. He informed the Members that this introductory meeting has been convened to broadly consult the Members to draw up a schedule and methodology to accomplish the task of submitting Report on the aforesaid Bill, by the last day of first week of the ensuing winter session of Parliament, which is likely to commence from the third week of November. He further informed that a series of meetings would be required to be held, so that by the first week of November, the drafting of the report and its adoption can be completed.

3. The Chairman also stated that on perusal of the documents circulated by the Secretariat, the proposed hike in the FDI limit in insurance sector from 26% to 49% seemed to be the main reason for referring it to this Select Committee and hoped that a mutually acceptable consensus would be arrived at by the Committee. He suggested that a Press Communiqué in this regard may be issued to invite

views/comments/suggestions from experts, stakeholders & others. He further proposed that the views of the Secretaries of the Departments of Financial Services and the Legislative Department and some individuals/organizations may be heard in the next sitting of the Committee.

4. Some of the Members stated that in view of the assembly by-elections in some states scheduled on 13<sup>th</sup> September, it may be difficult for them to attend the meeting of the Select Committee if it is fixed for the date prior to 13<sup>th</sup> September. On the suggestion of holding meetings continuously for two days, majority of the Members were of the view that meetings could be held on every Friday of the week in the month of September, so that they can schedule their programmes accordingly. Some Member opined that if need be, an extension of time for the submission of the Report may be sought, though some Members were against the suggestion as they desired to complete the assigned task within the stipulated time. Some Members desired to have a list of stakeholders and a brief summary on the Bill detailing the amendments, so that they may make suggestions in this regard. A Member tabled his views/comments and a list of witnesses who can be heard by the Committee. Some Members also desired that the Committee may visit some places, specially Mumbai and Kolkata, to hear the views of stakeholders.

5. Summarising the discussion, the Chairman stated that the Bill has already gone through a detailed process of examination by the Standing Committee on Finance, with wide ranging discussions with almost all the stakeholders. He therefore desired that instead of starting from the very beginning, the Members may go through the Finance Committee Report, the Bill itself and the amendments tabled so as to arrive at a decision as regards the stakeholders to be heard. The Chairman emphasized that the Committee was morally bound to present the Report within the stipulated time and therefore, the number of meetings, stakeholders or the places to be visited would be decided keeping in view the time factor. He further stated that there are already 99 amendments passed by the Cabinet, proposed to be carried out in this Bill and therefore only minor changes are required in the present Bill. The Chairman therefore suggested that the Committee may not insist on hearing all the stakeholders who had been heard before by the Committee on Finance. The Committee thereafter decided to issue a Press Release inviting suggestions from all the stakeholders and directed the Secretariat to do the needful in the matter as early as possible. A broad consensus was also arrived at that full-day meetings may be held on the 12<sup>th</sup>, 19<sup>th</sup> and 26<sup>th</sup> September, 2014.

6. A verbatim record of the proceedings of the meeting was kept.

7. The meeting, thereafter, adjourned at 3:55 p.m.



**II**  
**SECOND MEETING**

The Committee met at 11:30 A.M. on Friday, the 12<sup>th</sup> September, 2014 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

**PRESENT**

1. **Dr. Chandan Mitra** - **Chairman**

**MEMBERS**

2. Shri Mukhtar Abbas Naqvi
3. Shri Jagat Prakash Nadda
4. Shri Anand Sharma
5. Shri B.K. Hariprasad
6. Shri Jesudasu Seelam
7. Shri Satish Chandra Misra
8. Shri K.C. Tyagi
9. Shri Derek O'Brien
10. Dr. V. Maitreyan
11. Shri P. Rajeeve
12. Shri Kalpataru Das
13. Shri Naresh Gujral
14. Shri Rajeev Chandrasekhar

**SECRETARIAT**

- Shri M.K. Khan - *Joint Secretary*  
Shri Rakesh Naithani - *Joint Director*  
Shri Rajendra Tiwari - *Deputy Director*  
Shri Goutam Kumar - *Assistant Director*  
Shri Ranajit Chakraborty - *Committee Officer*

**Witnesses on the Insurance Laws (Amendment) Bill, 2008:**

**(iii) Representatives of the Department of Financial Services  
(Ministry of Finance)**

5. Dr. Gurdial Singh Sandhu - Secretary
6. Smt. Snehlata Shrivastava - Additional Secretary
7. Shri Anup Wadhawan - Joint Secretary

**(iv) Representatives of the Department of Industrial Policy and  
Promotion (Ministry of Commerce &  
Industry)**

- (1) Shri Amitabh Kant - Secretary
- (2) Shri Atul Chaturvedi - Joint Secretary
- (3) Shri Ishtiyaque Ahmed - Director

**(v) Representative of the Ministry of Corporate Affairs**

(1) Shri M.J.Joseph - Additional Secretary

**(vi) Representatives of the Legislative Department (Ministry of Law & Justice)**

4. Dr. Sanjay Singh - Secretary  
5. Dr. G. Narayanaraju - Additional Secretary  
6. Shri R. Sreenivas Counsel - Deputy Legislative  
7. Shri K.V. Kumar Counsel - Deputy Legislative

**(vii) Representatives of General Insurance Council (Mumbai)**

(1) Shri M. Ramaprasad - Chairman  
(2) Shri R. Chandrasekaran - Secretary General  
(3) Shri G. Srinivasan - CMD, New India Assurance Company Limited  
(4) Shri Bhargav Dasgupta - MD & CEO, ICICI Lombard General Insurance Company Limited  
8. Shri S.S. Gopalarathnam - MD & CEO, Cholamandalam MS General Insurance Company Limited  
9. Shri Antony Jacob - CEO, Apollo Munich Health Insurance Company Limited.

**(viii) Representatives of Public Sector Insurance Companies**

(1) Shri S.K.Roy - Chairman, Life Insurance Corporation  
(2) Shri G. Srinivasan - Chairman, New India Assurance Company Limited  
(3) Shri A.V.Girija Kumar - CMD, National Insurance Company Limited  
(4) Shri Milind Kharat - CMD, United India Insurance Company Limited.  
(5) Shri A.K.Saxena - CMD, Oriental Insurance Company Limited  
(6) Shri A.K. Roy - CMD, General Insurance Corporation of India Limited  
(7) Shri P.J. Joseph - CMD, Agricultural Insurance Company Limited  
(8) Shri M.K. Poddar - GM, Agricultural Insurance Company limited

2. At the outset, the Chairman welcomed the Members and informed them of the agenda for the day i.e. recording of oral evidences of the Secretaries of the Departments of Financial Services (Ministry of Finance), Industrial Policy & Promotion (Ministry of Commerce and Industry) and Legislative Department (Ministry of Law & Justice) and the representative of the Ministry of Corporate Affairs. The Chairman also informed that the Committee would also hear the

views of the representatives of the General Insurance Council and the Public Sector Insurance Companies in the afternoon session.

3. The Chairman then welcomed the representatives of the aforesaid Departments and informed that the proposed hike in the FDI limit in the insurance sector to 49% from the present 26%, besides other issues, was the main reason behind referring it to the Committee. The representatives were thereafter requested to share their views/suggestions on the Bill.

3.1 The representative of the Department of Financial Services informed that the Law Commission had examined the Insurance Act, 1938 and Insurance Regulatory and Development Act, 1999 and submitted its 190<sup>th</sup> Report to the Government in June, 2004. The K.P. Narasimhan Committee set up by the IRDA to examine the recommendations of aforesaid report, submitted its report to IRDA in July, 2005. Based on the recommendations of the Law Commission, Narasimhan Committee and the IRDA and after discussion amongst the Group of Ministers (GoM), the Insurance Laws (Amendment) Bill, 2008 to amend the Insurance Act, 1938, General Insurance Business (Nationalisation) Act, 1972 and IRDA Act, 1999 was introduced in Rajya Sabha in December, 2008. The Bill was referred to the Standing Committee on Finance, which submitted its report in December, 2011 and based on its recommendations, the Cabinet approved 99 amendments. A key recommendation of the Committee which was rejected by the Government related to the Committee's view that foreign equity cap should be retained at 26% and not be raised to 49%. The Bill has now again been referred to a Select Committee of the Rajya Sabha in August, 2014 for examination and report. The representatives also highlighted the salient features of the Bill.

3.2 The Department of Financial Services further explained that the rationale behind increasing the FDI limit to 49% is that the Insurance Companies are regulated by stringent solvency norms and continuously require additional capital for growth, which partly get invested in key sectors like infrastructure. The IRDA has estimated that the additional capital requirements of the insurance sector is Rs. 55,000 crore (Rs.44,500 crores for the life sector and Rs. 10,500 crores for the non-life sector) over the next five years and the domestic sources may be limited. Further, it was stated that the foreign equity potentially enables transfer of technical know how and better customer service through improved practices and competitive pressure. The FDI allowed in Insurance sector in other countries, the sectoral FDI limits existing in the country for other sectors and the key provisions proposed in the Bill for safeguarding the interests of the policy-holders were also highlighted. Giving specific instances of quantum of FDI in different countries, the Department submitted that it was 100 percent in Japan, South Korea, Hong Kong; 80 percent in Indonesia and 50 percent in China. Some Members questioned the projections made by the IRDA as regards the capital requirement of Rs. 55,000 crores.

3.3 In reply to a query of some Members, the Secretaries, Departments of Financial Services (DFS) and the Industrial Policy & Promotion (DIPP), stated that the concept of 'ownership and control' as contained in the Bill, is

prescribed in the existing FDI Policy and is in consonance with the Companies Act. However, the Members were of the opinion that the definition should be a part of the statute itself and not of the guidelines framed by the executive. The representative of the DIPP clarified that the limits of the FDI are not prescribed through Acts in any sector and government has increased the FDI limits for Defence and Railways and similar is the case with the Insurance sector. The Secretary, Department of Financial Services explaining the importance of the proposed raise in FDI limit in insurance sector stated that after the opening up of the insurance sector in 1999, 53 companies are presently operating, out of which 45 are in the private and 8 in the public sector. Out of the 45 companies, 38 companies are in joint venture with foreign partners and out of the total capital of Rs. 25,000 crore in the life sector, Rs 6000 crore is foreign capital, as it cannot go beyond this limit due to the present cap of 26 percent. In the non-life sector too, the foreign capital is touching the 25 percent limit, which points towards the fact that the sector is not growing due to lack of capital.

3.4 The Secretary, Department of Financial Services also pointed out that the total percentage of insurance FDI is hardly one percent of the total FDI which is coming into the country and presently, only 33% of the population is covered by life insurance. On a specific query of a Member, the Secretary, DIPP informed that Japan accounts for 34 percent of the inflows in the insurance sector, while USA, Germany and UK account for 11.33, 11 and 10 percent of the FDI inflows respectively and most of the insurance companies of Japan are keen to invest if the FDI limit is raised.

4. In the afternoon session, the Committee heard the representatives of the General Insurance Council (GIC). The representative of the GIC explained the role of the GIC in the insurance industry. Thereafter, one of the representatives of the Health–insurance sector referred to the Clause 42(2), which states “No person shall act as an insurance agent for more than one life insurer and one general insurer or one health insurer”. He pointed out that more than 20 lakh agents will not be available for stand-alone Health Insurance Companies because the agents would choose to be in the Life Insurance and General Insurance as there are many more products for the agents to sell as compared to the stand-alone health insurance sector. He therefore suggested that the words “or one health insurer”, should be replaced with “one life insurer, one general insurer and one health insurer”, which means that all of these 20 lakh agents could be available for health insurance distribution.

4.1 In reply to a query of a Member, as regards the flexibility of capital, a representative of the GIC stated that it should be left to the insurance company to decide whether they need FDI or list the company and get foreign portfolio investors. On the technology front, the representative informed that the industry has progressed substantially in the last few years in the Indian companies and the companies with foreign tie-ups, the insurance sector is at a global level. As regards the relation between FDI and penetration, the representative informed that in the last 13 years, since the privatization of the insurance sector and the cap of 26 percent, the General Insurance industry has grown from Rs. 9,700 crores to Rs. 80,000 crores. So there has been substantial growth and the fact that 20 odd

companies have come into the market, in addition to the public sector companies, itself has really resulted into a deeper penetration. He also informed that as per the IRDA guidelines, a total of forty-five percent of the insurance sector's investments for investment in the country, out of which 30 percent has to be invested in Government securities, 5 percent in housing and 10 percent in infrastructure, thus it in a way is an investment in the country. Further, when there is competition, prices are naturally kept under check, which benefits the consumer. The Committee also suggested that in the proposed increase in the FDI or foreign companies coming in, there should be some fencing regulations to secure the Indian premium and liabilities.

5. During the last session of the day, the Committee heard the representatives of the Public Sector Insurance Companies. The representative of the Life Insurance Corporation (LIC) *inter-alia* gave his suggestions on the Clause 48 regarding beneficial and collector nominee; clause 52 regarding fine on a insurer for appointing an ineligible person as an agent and clause 56 & 58 regarding definition of an agent. As regarding increase in the FDI limit, the LIC representative stated that if more foreign capital comes into the industry, it would benefit the life insurance industry as a whole and past experience has proven that LIC has done better in the face of competition. On a query of a Member, the LIC representative stated that LIC has been a front-runner in the use of technology and is the second entity to use mainframe computers.

8. A verbatim record of the proceedings of the meeting was kept.

9. The meeting, thereafter, adjourned at 4.17 p.m.

**III**  
**THIRD MEETING**

The Committee met at 11:00 A.M. on Friday, the 19<sup>th</sup> September, 2014 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

**PRESENT**

1. **Dr. Chandan Mitra** - **Chairman**

**MEMBERS**

2. Shri Mukhtar Abbas Naqvi
3. Shri Jagat Prakash Nadda
4. Shri Anand Sharma
5. Shri B.K. Hariprasad
6. Shri Jesudasu Seelam
7. Shri K.C. Tyagi
8. Dr. V. Maitreyan
9. Prof. Ram Gopal Yadav
10. Shri P. Rajeeve
11. Shri Kalpataru Das
12. Shri Naresh Gujral
13. Shri Rajeev Chandrasekhar

**SECRETARIAT**

Shri M.K. Khan - *Joint Secretary*  
Shri Rakesh Naithani - *Joint Director*  
Shri Rajendra Tiwari - *Deputy Director*  
Shri Goutam Kumar - *Assistant Director*  
Shri Ranajit Chakraborty - *Committee Officer*

**Witnesses on the Insurance Laws (Amendment) Bill, 2008:**

**Representatives of the private sector insurance companies:**

- (i) Bharti AXA General Insurance Company Ltd.  
Dr. Amarnath Ananthanarayanan;  
Shri Dipanker Saikia
- (ii) Religare Health Insurance Co. Ltd  
Shri Anuj Gulati
- (iii) Reliance General Insurance Co. Ltd.  
Shri Rakesh Jain
- (iv) Max Bupa Health Insurance Co. Ltd.  
Shri Manasije Mishra
- (v) Apollo Munich Health Insurance Company Ltd.  
Shri Antony Jacob
- (vi) Bajaj Allianz General Insurance Company Ltd.  
Shri Vijay Kumar

**Representatives of the employees associations of insurance sector:**

- (i) All India Insurance Employees Association  
Shri Amanulla Khan  
Shri V. Ramesh
- (ii) Life Insurance Agents Federation of India  
Shri S.B. Sreenivasa Chary  
Shri Shyamal Chakraborty
- (iii) General Insurance Employees' All India Association  
Shri P. K. Dharamthok,  
Shri M. S. Upadhyay,  
Shri Rajnish Pande  
Shri N. P. Upadhyay
- (iv) Insurance Brokers Association of India  
Shri Sohanlal Kadel  
Shri A. K. Narang
- (v) National Organisation of Insurance Workers  
Shri Atul Deshpande  
Shri M. A. Bapat
- (vi) National Federation of Insurance Field Workers of India  
Shri Gautam Sen Gupta  
Shri Rajesh Kumar Gupta

**Representatives of Department of Financial Services, (Ministry of Finance)**

Shri N Srinivasa Rao - Director

**Representatives of Legislative Department, (Ministry of Law & Justice)**

Dr. M. Vijayawargiya - Joint Secretary

Shri R. Sreenivas - Deputy Legislative Counsel

2. At the outset, the Chairman welcomed the Members and informed them about the agenda for the day i.e. recording of oral evidences of the representatives of the private sector insurance companies and employees associations in insurance sector.

3. The Chairman then welcomed the representatives of the private sector insurance companies stating that the hike in the FDI limit in the insurance sector to 49% from the present 26%, besides a host of other issues was the main reason behind referring the Bill to the Select Committee. The representatives were thereafter requested to share their views/suggestions on the Bill.

3.1 The representatives of the private sector insurance companies touched upon the reasons they considered as important for raising the FDI limit from 26% to 49%, mainly the need to provide adequate capital in the form of equity for increasing the insurance penetration in the country. The private sector representatives also stressed upon the enhanced possibility of better technology availability and access to global reinsurance market by increasing the FDI limit. Allowing Lloyds to set up a base in the country was cited as a positive step in this direction. The representatives also stressed upon the need to reduce the

penalty provisions in case of any omission being committed by the insurance agents of the respective companies. The representatives also cited the need for foreign capital in view of the long gestation period of the Insurance industry and the ability to sustain losses for long period. Exposing foreign capital to a low return industry in place of scarce Indian capital was cited as a better option. The private sector representatives also touched upon the nature of the General Insurance Industry and how it differed from the Life Insurance business in terms of return on capital employed, market penetration and also the ratio of equity to premium charged from consumers. They also stressed upon the need to further enhance the FDI limit in future course of time to make the insurance sector more attractive to foreign investor.

3.2 The FDI allowed in Insurance sector in other countries, the sectoral FDI limits existing in the country for other sectors and the key provisions proposed in the Bill for safeguarding the interests of the policyholders were also highlighted. Some Members raised queries on the issues highlighted and were responded to by the private sector representatives.

4. In the afternoon session, the Chairman welcomed the representatives of the employees associations of insurance sector and gave a brief on the background leading to the constitution of the Select Committee. The Chairman invited the representatives to present their views. The representatives of the employees associations and brokers association were unanimous in their opposition to the need for enhancing the FDI limit. They further gave a detailed historical perspective of the growth trajectory of the public sector insurance companies and gave a comparative picture of the insurance industry prior and post allowance of FDI. They touched upon the perceived demerits of allowing enhanced FDI in the insurance sector. They also elaborated upon the unethical practices leading to policy lapses in case of private sector insurance companies.

4.1 Further, the agents association touched upon the various clauses in the Bill which were against their interests like transfer of commission on death of an agent, allowing agents to function for different insurance companies *viz* life, general and health. They suggested amendments to few sections pertaining to the Insurance Act, 1938 *viz* sections 40, 40A, 44 and 55 *vide* clause nos. 48, 49, 57 and 58 of the instant Bill.

4.2 Some Members raised queries on these issues and sought detailed written clarifications from the representative of the Department of Financial Services.

5. The Committee thereafter unanimously decided to visit Mumbai to hear the representatives of SEBI, IRDA and other stake holders/subject experts on 16<sup>th</sup> and 17<sup>th</sup> October, 2014 and authorized its Chairman to seek Hon'ble Chairman's permission for the proposed visit. The Chairman directed the Secretariat to process the tour arrangements on priority basis.

6. The Committee then decided the next date for the sitting of the Committee as 26<sup>th</sup> September, 2014.



7. A verbatim record of the proceedings of the meeting was kept.
8. The meeting adjourned at 4.05 p.m.

## IV

### FOURTH MEETING

The Committee met at 11:00 A.M. on Friday, the 26<sup>th</sup> September, 2014 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

#### **PRESENT**

1. **Dr. Chandan Mitra** - **Chairman**

#### **MEMBERS**

2. Shri Anand Sharma
3. Shri Jesudasu Seelam
4. Shri Satish Chandra Misra
5. Shri K.C. Tyagi
6. Shri P. Rajeev
7. Shri Kalpataru Das
8. Shri Naresh Gujral
9. Shri Rajeev Chandrasekhar

#### **SECRETARIAT**

- Shri M.K. Khan - *Joint Secretary*  
Shri Rakesh Naithani - *Joint Director*  
Shri Rajendra Tiwari - *Deputy Director*  
Shri Goutam Kumar - *Assistant Director*  
Shri Ranajit Chakraborty - *Committee Officer*

#### **Witnesses on the Insurance Laws (Amendment) Bill, 2008:**

#### **Representatives of the Confederation of Indian Industry(CII):**

- (i) Shri Sanjiv Bajaj, Managing Director, Bajaj Financial Services Ltd.
- (ii) Shri Rajesh Sud, MD & CEO, Max Life Insurance Company Ltd.
- (iii) Shri S.Sreenivasan, President, Bajaj Financial Services Ltd.
- (iv) Smt. Anuradha Kapoor Salwan, Director, Financial Services, CII
- (v) Shri Marut Sen Gupta, Deputy Director General, CII
- (vi) Smt. Gunjan Aggarwal, Executive Officer, CII

#### **Representatives of Federation of Indian Chambers of Commerce and Industry (FICCI):**

- (i) Shri T.R. Ramachandran, Chief Executive, Aviva Life Insurance
- (ii) Shri Tarun Chugh, MD & CEO, PNB Metlife India Insurance Co. Ltd.
- (iii) Dr. A. Didar Singh, Secretary General, FICCI

- (iv) Shri Suresh Agarwal, Head Sales & Distribution, Kotak Mahindra
- (v) Smt. Nirupama Soundarajan, Additional Director & Team Leader, FICCI

**Representatives of Indian Institute of Insurance Surveyors & Loss Assessors (IIISLA):**

- (i) Shri R.K. Elango, Member, Standing Committee IIISLA
- (ii) Shri Ashok Kumar, Member, Standing Committee IIISLA
- (iii) Shri Prem Chandra Shukla, Ex-council Member
- (iv) Shri Lalit Gupta, Ex-council Member
- (v) Shri Nirmal Tripathi, Ex-council Member
- (vi) Shri J.L. Tiku, Ex-council Member

**Representatives of Life Insurance Council (LIC):**

- (i) Shri V. Manickam, Secretary General
- (ii) Shri Sandeep Bakshi, CEO, ICICI Prudential Life Insurance Co.
- (iii) Shri Arijit Basu, CEO, SBI Life Insurance Company
- (iv) Shri K.S.Gopalakrishnan, CEO, Aegon Religare Life Insurance Co.
- (v) Shri Sandeep Ghosh, CEO, Bharti-AXA Life Insurance Co.
- (vi) Shri Anup Rau, CEO, Reliance Life

**Representatives of Department of Financial Services, Ministry of Finance**

Shri N. Srinivasa Rao - Director

## **Representatives of Legislative Department, Ministry of Law & Justice**

Dr. M. Vijayawargiya - Joint Secretary  
Shri R. Sreenivasa Rao - Deputy Legislative Counsel

2. At the outset, the Chairman welcomed the Members and informed them about the agenda for the day i.e. recording of oral evidences of the representatives of the Confederation of Indian Industry(CII), Federation of Indian Chambers of Commerce and Industry (FICCI), Indian Institute of Insurance Surveyors & Loss Assessors (IISLA) and Life Insurance Council (LIC).

3. The Chairman then welcomed the representatives of the CII and FICCI stating that the hike in the FDI limit in the insurance sector to 49% from the present 26%, besides other issues was the main reason behind referring the Bill to the Select Committee. The representatives were thereafter requested to share their views/suggestions on the Bill.

3.1 The representatives gave their views on the various sections of the Bill under consideration. Referring to Section 40B and 40C of the Bill, regarding the limits on expenses of the management, the representatives stated that the IRDA may prescribe the limits on the expenses of the management of an insurer, after considering the size and age of the insurer. As regards Section 45, pertaining to calling in question a policy on the grounds of mis-statement after two years, they stated that the provisions as existing in the current Act may be retained, however the period may be increased to three years. The representative also referred to the increase in quantum of fines under Sections 102, 103, 104, 105 and 105B and stated that it is unreasonably high. As regards Section 42(5), the representative felt that the insurer should not be held responsible if the fraud is committed by an agent without the knowledge of the insurer. They also felt that life insurance should include health insurance and accidental death insurance and the new Section 2 sub-section 6(c) should clarify this. As regards Section 31B regarding power to restrict payment of excessive remuneration, they felt that IRDA should decide the remuneration in case it is felt that it is disproportionate. They also suggested on the constitution of the Executive Council of the Life Insurance Council under Section 64F and felt that there was no need to specify various categories of stakeholders. On the definition of 'control' under Clause 3 of the Amendment Bill, they stated that it should mean control by the Indian shareholders and have the meaning assigned to it by the Companies Act, 2013. They also pointed out that as per the Section 80(C) of the Income Tax Act, insurance premiums have been clubbed with short term fixed deposits for the rebates. However, insurance being separate from savings, they should at least be treated at par with the long term savings.

3.2 On a query by the Committee as to how the increase in FDI limit would translate into additional competition and more consumer choice, the representative explained that consumer protection and the intention of making the consumer more secure is embedded in the Act itself. He further stated that

presently there are 24 companies in the sector, which is expected to increase further with the increase in FDI limit, ensuring competition and offering good consumer choice. On the issue of rural penetration the representative explained that as per statutory requirements, every company which is given license is required to have a certain proportion of its policies specifically for the rural sector and presently about 20 percent of the policies and 70 percent offices are in the rural segment. As regards capital requirements, the representative stated that as compared to the other countries, Indian rules are very conservative and require the companies to hold more capital than required and hence there is a need for capital through FDI route.

4. The Chairman then welcomed the representatives of the Indian Institute of Insurance Surveyors and Loss Assessors stating that the hike in the FDI limit in the insurance sector to 49% from the present 26%, besides a host of other issues was the main reason behind referring the Bill to the Select Committee. The representatives were thereafter requested to share their views/suggestions on the Bill.

4.1 The representatives pointed to the proposed amendment in Section 64UM of the Insurance Act, in the present Insurance Laws (Amendment) Bill, 2008, under Clause 86 and its implications on consumer interest. They submitted that Sub-sections(2), (3), (4), and (5) of Section 64UM have been deleted in the amended Bill. They stated that as per Sub-Section (2) there is a mandatory requirement to assess the loss by an independent person who has been licensed by the IRDA. Further Sub-section (3), empowers the authority to call for an independent surveyor report, in case of any dispute in settlement of claim between the insured and the insurer and ultimately, the IRDA can appoint an independent surveyor and obtain a report. Sub-section (4) says that based on sub-section (3), the report obtained by IRDA, the IRDA has the power to direct the insurer to settle the claim and the insurance company is bound to settle the claim. While Sub-section (5) says that payment of surveyor fee has to go only to the surveyor who has dealt with the claim. He stated that all these mandatory provisions have been taken away in the new Bill and suggested that these provisions should be retained. On a query by the Committee as to how these provisions were deleted, the representative of the Department of Financial Services stated that while these provisions have been removed and would be included in the regulations under the Act. The Committee also decided to seek a written submission in this regard from the Department explaining the reasons for the deletions.

5. The Chairman then invited the representatives of the Life Insurance Council to present their views/suggestions on the Bill specifically on the issue of increase in FDI limit

5.1 The representative highlighted six points before the Committee *viz.* capital inflow with particular stress on FDI; definition of life insurance; penalties in the proposed amendment; acts of omissions by agents and the proposed penalties; calling a claim into question after three years and finally the composition of the Life Insurance Council.

5.2 The representative stated that capital is required for two reasons, firstly at the time of sale, any product sold creates its strain because the premium a customer is paying is much less than the reserve that is being created and the expenses actually incurred. Secondly, a lot of expenses that are incurred off-front in building the distribution infrastructure in hiring the agents, training the agents, creating branch network etc. Hence the industry needs capital support for faster growth. He also stated that increase in FDI limit would bring in foreign players who are experts in the field of life insurance and would bring more expertise and more players in the insurance sector, thus ensuring better protection coverage for the Indian population. On the issue of Indian control, they suggested that a majority of resident Indians may be appointed in the Board of the companies. The representative also stated that the current proposed definition seems to exclude health insurance from the definition of a life insurance, and therefore submitted that as life insurer has the expertise to design, decide the price and administer health insurance products, life insurance companies should not be excluded from offering health insurance products to the masses of the country. Similarly, he also suggested that the life insurers should be allowed to sell 'accident death only' insurance products which is presently prohibited.

5.3 As regards the penalties, the representative stated that currently, in the Insurance Act, there are various provisions for penalties which go up to five lakh of rupees. The current Bill proposes to increase it to Rupees One crore for certain violations and also it goes up to Rs. 25 crore for certain specific violations. He therefore suggested that the penalties which are being proposed could be kept in sync with similar other financial services so that the penalties are consistent and not excessively high. On the issue of a claim being questioned under section 45 of the Insurance Act, which states that within two years of purchasing a life insurance policy, the life insurer can reject the claim if there was a fraud and can actually repudiate even later if they can demonstrate that there has been a fraud. He stated that the current proposal suggested that the right to question does not exist for the life insurer beyond three years. He therefore suggested that the companies be given the right to repudiate, if the life insurance company can demonstrate, even in case of death after three years, that the intent was fraudulent. Some members were of the opinion that three years is a long period for the company to take due diligence and detect fraud and the benefit of doubt should always go to the consumer and not the big insurance companies.

5.4 On the issue of insurer's liability for acts of the agent, the representative stated that in the proposed amendment, the insurer shall be responsible for all the acts and omissions of its agent, including violations of code of conduct. He pointed out that it would be very difficult for the insurance companies to manage the acts of the agents as there are a huge number of agents all over the country. One of the members opined that atleast some responsibility of the acts of the agents should rest with the companies. As regards the constitution of Life Insurance Council, the representative stated that as per the proposal in the Bill the Executive Committee of the Life Insurance Council shall consist of four representatives of members of the Life Insurance Council elected by the members and four members will be nominated by the IRDA and out of these four, one will be an eminent person and the rest three will be

representing insurance agents, intermediaries and policy-holders. The representative stated that the Council being a body representing the industry, members from outside are not required. However, the Committee was of the opinion that to protect the interest of the consumer, the Council must have representations from outside the industry.

9. The Committee then decided the next date for the sitting of the Committee as 14<sup>th</sup> October, 2014.

10.

11. A verbatim record of the proceedings of the meeting was kept.

12. The meeting adjourned at 2.50 p.m.

**V**

**FIFTH MEETING**

The Committee met at 2:00 P.M. on Tuesday, the 14<sup>th</sup> October, 2014 in  
Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

**PRESENT**

- |                |                           |   |                 |
|----------------|---------------------------|---|-----------------|
| 1.             | <b>Dr. Chandan Mitra</b>  | - | <b>Chairman</b> |
| <b>MEMBERS</b> |                           |   |                 |
| 2.             | Shri Mukhtar Abbas Naqvi  |   |                 |
| 3.             | Shri Jagat Prakash Nadda  |   |                 |
| 4.             | Shri Anand Sharma         |   |                 |
| 5.             | Shri B.K. Hariprasad      |   |                 |
| 6.             | Shri Jesudasu Seelam      |   |                 |
| 7.             | Shri Satish Chandra Misra |   |                 |
| 8.             | Shri K.C. Tyagi           |   |                 |
| 9.             | Shri Derek O'Brien        |   |                 |
| 10.            | Dr. V. Maitreyan          |   |                 |
| 11.            | Shri P. Rajeeve           |   |                 |
| 12.            | Shri Kalpataru Das        |   |                 |
| 13.            | Shri Rajeev Chandrasekhar |   |                 |

**SECRETARIAT**

- |                          |   |                    |
|--------------------------|---|--------------------|
| Shri M.K. Khan           | - | Joint Secretary    |
| Shri Rakesh Naithani     | - | Joint Director     |
| Shri Rajendra Tiwari     | - | Deputy Director    |
| Shri Goutam Kumar        | - | Assistant Director |
| Shri Ranajit Chakraborty | - | Committee Officer  |



***Witnesses on the Insurance Laws (Amendment) Bill, 2008:***

**Representatives of Lloyd's:**

- (i) Ms. Rosemary Beaver, Head of International Regulatory Affairs
- (ii) Shri Arun Agarwal, Lloyd's General Representative in India

**Representatives of Institute of Actuaries in India:**

Shri Rajesh Dalmia, President

**Representatives of Aon Global Insurance Brokers Pvt. Ltd.:**

- (i) Shri Sandeep Malik, CEO, ARS Asia
- (ii) Shri Rakesh Malik, CEO, Aon Global Insurance Brokers Pvt. Ltd.

**Representatives of Deutsche Bank:**

Shri Ravneetsingh Gill, MD & CEO

**Representatives of Organisations and some individuals:**

- (i) Shri S.B. Mathur, Former Chairman, LIC;
- (ii) Ms. Mirai Chatterjee, Chairperson, National Insurance Vimo Sewa Co-operative Ltd.;
- (iii) Shri A.V. Nachane, General Secretary, All India LIC Employees Federation;
- (iv) Shri H Abdur Raqeeb, General Secretary, Indian Centre for Islamic Finance; and
- (v) Shri Subhash Chandra Agrawal, RTI activist.

**Representatives of Department of Financial Services, Ministry of Finance**

Shri N. Srinivasa Rao - Director

**Representatives of Legislative Department, Ministry of Law & Justice**

Dr. G. Narayan Raju - Additional Secretary

2. At the outset, the Chairman welcomed the Members and informed them about the agenda for the day i.e. recording of oral evidences of organisations/institutions/individuals who have submitted their Memorandum in response to the press release issued by the Select Committee.

3. The Chairman thereafter welcomed the representatives of the Lloyds' and requested them to share their views/suggestions on the Bill. The representative of the Lloyd's appreciated the provisions in the Bill which recognize Lloyd's legal structure and permit members of Lloyd's to transact reinsurance business through branches in India. However she explained that Lloyds' itself is not an insurer or reinsurer but a

statutory corporation, which provides a platform and supervises the carrying on of insurance and reinsurance business by its members. The Members are not only limited companies, Scottish Limited partnerships or UK Limited liability partnerships but also include individuals. Infact the members of the Lloyd's carry on the insurance business as members of the syndicate. They therefore requested for clarifications on the provisions of the Bill relating to supervision of the branches of the foreign insurers and suggested that in explanation under Section 2 Clause 9(d) of the Bill alongwith Lloyd's "and any member of Lloyd's" may be added. The Members desired to know whether the procedural modalities being followed in other countries, specifically China would be acceptable for the Lloyds. The Legislative Department opined that a separate inclusion in the definition is not required.

4. The Chairman then welcomed the representative of the Institute of Actuaries of India and requested them to present their views. The representative stated that presently, there is no level-playing field between the three companies viz. life insurance, general insurance and health insurance and all the companies are operating in health insurance. He therefore suggested a definition in the Act itself and allow all the three insurance companies to act independently. He also suggested that the three different types of insurance should be clearly defined. Regarding the aspect of investment assets and solvency, he suggested that these areas should be left to the IRDA to decide. He also pointed out that the act is stressing on the financial condition reporting of the life insurance companies, whereas it is important for general and health too. As regards Section 113 about acquisition of surrender values, he suggested that it should be left to the regulator as it is already looking into the product approvals. They welcomed the increase in FDI limit as insurance business is highly capital intensive.

5. The Chairman then welcomed the representatives of the AON Global Insurance Brokers Pvt. Ltd. and requested them to present their views. The representative stated that the Bill treats the insurance brokers as insurers and suggested that they be treated more like professional services firm. He also stated that till the FDI limit is increased to 51%, the Indian operation of the company cannot be consolidated and the requirement that the Indian insurance company must be an Indian owned and controlled entity would be a very challenging issue to deal with. He suggested that at least they should have equal management rights with the joint venture partner.

6. The representatives of the Deutsche Bank were called upon to present their views. The representative stated that in case the FDI limit is increased to 49%, about five to seven billion dollars of FDI is expected to come in for the infrastructure sector. Secondly, he hoped that there would be no distinguishing between FDI and FII so that capital can be raised from the capital markets. He pointed out that when FDI limit was 26%, investment was under the automatic route, however under the 49%, it is being proposed that it goes via FIPB. He submitted that it will be easier from a procedural perspective, if it continues to be under the automatic route. As regards ownership he stated that Indian ownership is not a deterrent and the insurance players globally would accept Indian ownership provided that the definition of Indian ownership is very clear in the Bill.

7. The Chairman then welcomed some individuals and representatives of some organisations to present their views before the Committee. One of the representatives

made some suggestions on the Bill *viz.* in the interest of policyholders the period of two years during which the policy can be questioned on grounds other than fraud should be retained; a new provision be added authorizing the Authority to issue such directions as it deems fit, to specify the manner in which the premium paid under the policy till the date of repudiation on grounds be appropriated and the Bill should specifically indicate that the provisions of the clause will apply to policies issued on and after the date on which the Act becomes effective. He also pointed out that the LIC's repudiation percentage is 1.1-1.3% which is very creditable as compared to private insurers. He also had reservations on the shifting of the onus of proof on the families of life assured on his death. Another representative raised the aspect of strengthening the micro insurance sector, which covers the poor people in the country and requested that the capital requirement may be reduced to enable them to grow. A representative of the insurance employees' federation pointed out that the private companies bank upon unit linked business, where the insurer has no risk, while the insured faces the risk as all the money is invested in a fluctuating share market. Another representative suggested about a hybrid model of Islamic insurance existing in the middle-east, which can bring huge investments in the country.

13. A verbatim record of the proceedings of the meeting was kept.
14. The meeting adjourned at 4:35 p.m.

## VI

### SIXTH MEETING

The Committee met at 3:30 P.M. on Thursday, the 27<sup>th</sup> November, 2014 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

#### PRESENT

1. **Dr. Chandan Mitra** - *Chairman*
- MEMBERS**
2. Shri V.P. Singh Badnore
  3. Shri Rangasayee Ramakrishna
  4. Shri Anand Sharma
  5. Shri Jesudasu Seelam
  6. Shri Satish Chandra Misra
  7. Shri Derek O'Brien
  8. Dr. V. Maitreyan
  9. Prof. Ram Gopal Yadav
  10. Shri P. Rajeeve
  11. Shri Kalpataru Das
  12. Shri Naresh Gujral
  13. Shri Rajeev Chandrasekhar

#### SECRETARIAT

- |                          |   |                           |
|--------------------------|---|---------------------------|
| Shri M.K. Khan           | - | <i>Joint Secretary</i>    |
| Shri Rakesh Naithani     | - | <i>Joint Director</i>     |
| Shri Goutam Kumar        | - | <i>Assistant Director</i> |
| Shri Ranajit Chakraborty | - | <i>Committee Officer</i>  |

2. At the outset, some of the Members objected to the date and timing of the meeting. They pointed out that important legislative business was listed for discussion in the House, besides the Business Advisory Committee Meeting scheduled in the afternoon session and they had to attend the aforesaid business. Keeping in view the sentiments of the Members, the Chairman decided to postpone the meeting. It was also decided to postpone the meeting scheduled for 28<sup>th</sup> and 29<sup>th</sup> November, 2014. The Committee after some deliberations, decided to meet on the 2<sup>nd</sup> and 3<sup>rd</sup> December, 2014 to undertake clause-by-clause consideration of the Insurance Laws(Amendment) Bill, 2008.

3. A verbatim record of the proceedings of the meeting was kept.
4. The meeting, thereafter, adjourned at 3: 50 p.m.

**VII**  
**SEVENTH MEETING**

The Committee met at 3:00 P.M. on Tuesday, the 2<sup>nd</sup> December, 2014 in Room No. 63, First Floor, Parliament House, New Delhi.

**PRESENT**

1. **Dr. Chandan Mitra** - **Chairman**

**MEMBERS**

2. Shri V.P. Singh Badnore
3. Shri Rangasayee Ramakrishna
4. Shri Anand Sharma
5. Shri Jesudasu Seelam
6. Shri K.C. Tyagi
7. Shri Derek O'Brien
8. Dr. V. Maitreyan
9. Shri P. Rajeeve
10. Shri Naresh Gujral
11. Shri Kalpataru Das
12. Shri Rajeev Chandrasekhar

**SECRETARIAT**

- |                          |   |                    |
|--------------------------|---|--------------------|
| Shri M.K. Khan           | - | Joint Secretary    |
| Shri Rakesh Naithani     | - | Joint Director     |
| Shri Rajendra Tiwari     | - | Joint Director     |
| Shri Goutam Kumar        | - | Assistant Director |
| Shri Ranajit Chakraborty | - | Committee Officer  |

**(ix) Representatives of the Department of Financial Services  
(Ministry of Finance)**

- |                              |   |                      |
|------------------------------|---|----------------------|
| 8. Shri Hasmukh Adhia        | - | Secretary            |
| 9. Smt. Snehlata Shrivastava | - | Additional Secretary |
| 10. Shri Anup Wadhawan       | - | Joint Secretary      |
| 11. Shri Srinivasa Rao       | - | Director             |

**(x) Representatives of the Legislative Department (Ministry of Law & Justice)**

- |                                  |   |                      |
|----------------------------------|---|----------------------|
| 10. Dr. Sanjay Singh             | - | Secretary            |
| 11. Dr. G. Narayanaraju          | - | Additional Secretary |
| 12. Shri R. Sreenivas<br>Counsel | - | Deputy Legislative   |

**(xi) Representatives of the Department of Economic Affairs  
(Ministry of Finance)**

Shri P.K.Bagga - Officer on Special Duty

**(xii) Representatives of the IRDA**

(4) Shri R.K.Nair - Member  
(5) Shri Lalit Kumar - Financial Advisor

**(xiii) Representative of LIC**

(2) Shri S. Mohanty - Chief Legal Officer  
(3) Shri M.A.Gajeria - Law Officer, LIC

**(xiv) Representative of GIPSA**

Shri A.K. Singhal - Chief Executive Officer

2. At the outset, the Chairman welcomed the Members and the representatives of the Departments of Financial Services, Legislative Department, IRDA, LIC & GIPSA and informed them about the agenda for the meeting. The Committee thereafter took up clause-by-clause consideration of the Bill. Clause Nos. 1 to 48 were taken up for consideration and were adopted with modifications in Clause No 3 relating to the issue of enhancement of FDI cap from 26% to 49% . This issue was deliberated at length. Few Members and some stakeholders apprised the Committee that the major reason for not increasing FDI in insurance sector is that it may not be able to increase the penetration as expected or estimated by the Government, and it may be detrimental to Indian ownership and control, which may prove suicidal for our national interest. One of the Member while elaborating on this issue cited the recommendations contained the 41<sup>st</sup> Report of the Standing Committee on Finance (2011-12) on the Insurance Laws (Amendment) Bill, 2008, wherein the Standing Committee recommended that the foreign equity to be kept at 26% as against the proposal of raising to 49%. However most of the Members were in favor of raising the equity cap in such a manner that the capital base of the Insurance industry is enhanced and the issue of ownership and control is suitably addressed.

3. The Committee also made detailed deliberations on Clause 12 of the Bill which relates to the provision for minimum paid up capital pertaining to life, general and health insurance business. As regards health insurance, the Committee was of the opinion that a reduction in the paid up equity capital in health insurance sector as compared to the life and general insurance, would encourage the non-serious players to enter the field. The Committee therefore recommended that the minimum paid-up equity capital may be raised to Rs. 100 crores for health insurance sector to ensure that only committed players may enter this sector.

4. The rest of the Clauses upto Clause 48 and the official amendments there to were adopted by the Committee.

5. A verbatim record of the proceedings of the meeting was kept.
6. The meeting, thereafter, adjourned at 5:13 p.m.

**VIII**  
**EIGHTH MEETING**

The Committee met at 3:00 P.M. on Wednesday, the 3<sup>rd</sup> December, 2014 in Room No. 63, First Floor, Parliament House, New Delhi.

**PRESENT**

1. **Dr. Chandan Mitra** - **Chairman**
- MEMBERS**
2. Shri V.P. Singh Badnore
  3. Shri Rangasayee Ramakrishna
  4. Shri Anand Sharma
  5. Shri Jesudasu Seelam
  6. Shri Satish Chandra Misra
  7. Shri Derek O'Brien
  8. Dr. V. Maitreya
  9. Shri P. Rajeev
  10. Shri Naresh Gujral
  11. Shri Rajeev Chandrasekhar

**SECRETARIAT**

- |                          |   |                    |
|--------------------------|---|--------------------|
| Shri M.K. Khan           | - | Joint Secretary    |
| Shri Rakesh Naithani     | - | Joint Director     |
| Shri Rajendra Tiwari     | - | Joint Director     |
| Shri Goutam Kumar        | - | Assistant Director |
| Shri Ranajit Chakraborty | - | Committee Officer  |

**(xv) Representatives of the Department of Financial Services  
(Ministry of Finance)**

12. Shri Hasmukh Adhia - Secretary
13. Smt. Snehlata Shrivastava - Additional Secretary
14. Shri Anup Wadhawan - Joint Secretary
15. Shri Srinivasa Rao - Director

**(xvi) Representatives of the Legislative Department (Ministry of Law & Justice)**

13. Dr. Sanjay Singh - Secretary
14. Dr. G. Narayanaraju - Additional Secretary
15. Shri R. Sreenivas - Deputy Legislative Counsel

**(xvii) Representatives of the Department of Economic Affairs  
(Ministry of Finance)**

- |                 |   |                         |
|-----------------|---|-------------------------|
| Shri P.K. Bagga | - | Officer on Special Duty |
|-----------------|---|-------------------------|

**(xviii) Representatives of the IRDA**



- (6) Shri R.K.Nair - Member  
(7) Shri H. Ananthkrishnan - Legal Advisor

**(xix) Representative of LIC**

- (4) Shri S. Mohanty - Chief Legal officer  
(5) Shri M.A.Gajeria - Law Officer, LIC

**(xx) Representative of GIPSA**

- Shri A.K. Singhal - Chief Executive Officer

2. At the outset, the Chairman welcomed the Members and the representatives of the Departments of Financial Services, Legislative Department, IRDA, LIC & GIPSA and informed that the Committee had yesterday completed clause-by clause consideration of the Bill till clause 48 and would resume further clause-by-clause consideration of the remaining clauses of the Bill. The Committee thereafter took up the clause-by-clause consideration and the clauses where significant comments/suggestions of the Members were received are mentioned below.

3. Clause 50 which seeks to substitute sections 40B and 40C of the Act to regulate management expenses of life, general and health insurers and re-insurers was taken up by the Committee. The Committee recommended that flexibility may be given to IRDA to prescribe the broad architecture for determination of the expenses of an insurer in any financial year as regards the remuneration to their agents/intermediaries, as it may require continuous monitoring and modifications due to the ever changing dynamics of the insurance market. The Committee also recommended that adequate protective mechanism may also be instituted by IRDA to ensure that the due commission to the agents against business done is protected through regulations and their commission structure should be determined by IRDA depending on market conditions.

4. As regards clause 50A regarding insertion of new section 40D relating to prohibition to receive Commission on re-insurance with Indian re-insurers, the Committee strongly recommended that the insertion of the new section 40 D may be reviewed in consultation with IRDA so that the insurers are not prohibited from earning reinsurance commission and to ensure that there are no road blocks in the growth of reinsurance industry and that ambiguity with regard to interpretation of definition of 'agents' may be avoided. Hence the Committee recommended that the paragraph 52(2) may be reworded as follows:

“No individual shall act as an insurance agent for more than one life insurer, one general insurer and one health insurer.”

The Committee was of the opinion that the agents be allowed to also act as an insurance agent for any one specialized category and that no agent be allowed to work as an insurance agent for more than one company in the same category.

5. As regards Clause 56, the Committee recommended that keeping in view the technological advances made for data storage the record of agents may be maintained in any form, including electronic mode.

6. In Clause 57, the Committee endorsed the view of the Government that the proposed regulations being framed by the IRDA would cover the aspect of commissions paid and received by agents. The Committee is also of the view that the proposal to do away with Section 44 of the Act, would work against the interest of a large number of agents. The Committee was therefore of the opinion that while framing the Regulations, the IRDA may give due consideration to protect the interest of LIC and it should also be ensured that no subsequent provisions run contrary to the provisions of LIC Act, 1956.

7. As regards Clause 58, the Committee was of the opinion that there is merit in the contention of both LIC and IRDA that once a policy is liable to be repudiated on grounds of mis-statement or deliberate concealment of vital facts, refund of premium cannot be claimed. The Committee, however felt that to protect the interests of policy holders adequate provision should be made so that there is no scope for its misuse by the insurance companies and policy holders are not victimized for minor aberrations.

8. In clause 76, which seeks to substitute section 64F of the Act relating to composition, function and operational issues of the Life Insurance Council and the General Insurance Council to make them the self-regulatory organizations, the Committee was of the opinion that involvement of eminent persons not connected with the insurance business helps in bringing in outside experience besides setting up high standards of corporate governance. The Committee feels that sufficient representation has already been given to all stakeholders in the aforesaid bill and the same may be retained. The Committee recommends for inclusion of representatives of self help groups and insurance cooperative societies which are engaged in providing insurance to the vulnerable sections of the society.

9. As regards Clauses 91, 92 and 93 regarding penalties proposed in the Bill, the Committee recommended that the penalties may be commensurate to the gravity of the offence committed. The Committee emphasised that adequate safeguards/regulations be institutionalized by IRDA for fixation of penalties so that there is minimum scope for subjective interpretation and they do not act as a deterrent to well-meaning companies from entering the insurance sector. In this regard, the Committee also recommended that after section 105C of the principal Act, the following section shall be inserted:-

“105D. Adequate safeguards for fixation of penalties.-

While fixing the penalties under sections 102, 103, 104, 105, 105B and 105C, the Authority shall specify such safeguards so that the penalties may be commensurate to the gravity of offence committed.”

10. As regards Clause 94, the Committee suggested moderation of penalties wherever proposed and suggested that the Government may suitably examine the issue and the words “or an equivalent officer” may be added after the words ‘Joint Director’ as suggested in clause 94 Section 105(C)(1). Similarly in all other clauses where an IRDA official is mentioned by designation, similar flexibility may be introduced.

11. As regards Clause 98, the Committee recommended that the concern of the Industry Chambers may be examined and a suitable mode of allowing appeals be incorporated in the Bill. The Committee was of the opinion that the regulations to be drafted and adopted by IRDA, subsequent to the Bill, becoming an Act should not give unbridled and arbitrary powers to IRDA. The Committee also recommended for inclusion of a person from the insurance industry in the Securities Appellate Tribunal so as expert opinion of the industry is also taken into consideration. Accordingly, the

Committee recommended for that necessary modifications in the Securities and Exchange Board of India Act, 1992.

12. The rest of the Clauses and the Official Amendments thereto were adopted by the Committee without any change. The Committee decided to adopt the report in its meeting scheduled for the 8<sup>th</sup> December, 2014.

13. A verbatim record of the proceedings of the meeting was kept.

14. The meeting, thereafter, adjourned at 6:00 p.m.

**IX**  
**NINTH MEETING**

The Committee met at 3:00 P.M. on Monday, the 8<sup>th</sup> December, 2014 in Room No. 63, First Floor, Parliament House, New Delhi.

**PRESENT**

1. **Dr. Chandan Mitra** - *Chairman*

**MEMBERS**

2. Shri V.P. Singh Badnore
3. Shri Rangasayee Ramakrishna
4. Shri Anand Sharma
5. Shri B.K. Hariprasad
6. Shri Jesudasu Seelam
7. Shri Derek O'Brien
8. Dr. V. Maitreyan
9. Shri P. Rajeeve
10. Shri Naresh Gujral
11. Shri Kalpataru Das
12. Shri Prof. Ram Gopal Yadav

**SECRETARIAT**

Shri M.K. Khan	-	Joint Secretary
Shri Rakesh Naithani	-	Joint Director
Shri Rajendra Tiwari	-	Joint Director
Shri Goutam Kumar	-	Assistant Director
Shri Ranajit Chakraborty	-	Committee Officer

**(xxi) Representatives of the Department of Financial Services  
(Ministry of Finance)**

- |                               |   |                      |
|-------------------------------|---|----------------------|
| 16. Smt. Snehlata Shrivastava | - | Additional Secretary |
| 17. Shri Anup Wadhawan        | - | Joint Secretary      |
| 18. Shri N. Srinivasa Rao     | - | Director             |

**(xxii) Representatives of the Legislative Department (Ministry of Law &  
Justice)**

- |                         |   |                               |
|-------------------------|---|-------------------------------|
| 16. Dr. G. Narayanaraju | - | Additional Secretary          |
| 17. Shri R. Sreenivas   | - | Deputy Legislative<br>Counsel |

**(xxiii) Representatives of the Department of Economic Affairs  
(Ministry of Finance)**

Shri P.K.Bagga - Officer on Special Duty

**(xxiv) Representatives of the IRDA**

(8) Shri R.K.Nair - Member  
(9) Shri H. Ananthakrishnan - Joint Director

2. At the outset, the Chairman welcomed the Members and the representatives of the Departments of Financial Services, Legislative Department, Economic Affairs, IRDA and informed them that the Committee would take up for adoption of its draft Report on the Insurance Laws (Amendment) Bill, 2008, which had already been circulated to the Members.

3. Some of the Members raised the issue of ownership and control as contained in Clause 3 of the Bill. They were of the opinion that the FDI inflows should increase the capital base of the companies rather than benefitting some specific individuals. Some Members also pointed out that insurance penetration has not shown a significant increase, after the FDI limit was increased to 26%. Members also cited arguments against the estimated Rs 55,000/- crores that was expected to come into the insurance sector in the next five years, consequent to the enhancement of the FDI cap. An addition to put a Composite Cap of 49% on the FDI and FPI was agreed to by the Committee. Slight changes were suggested and approved in Clause No. 86. Induction of a small para with reference to Clause No. 107 was also agreed upon.

4. One of the Members also submitted a Note of Dissent on the Report.

5. The Chairman on behalf of the Committee appreciated the hard work and diligence put in by the Secretariat by adhering to the tough deadlines. Few Members also reiterated the same and expressed appreciation of the commendable and challenging work done by the Committee Secretariat.

6. The Committee authorized the Chairman of the Committee to carry out the above changes alongwith other corrections of editorial nature. The draft report was adopted with the aforesaid changes. Few other Members also expressed their desire to give Dissent Notes and the same was agreed to by the Chairman, with a request that the same may be handed over to the Secretariat latest by 6:00 P.M. on the 9<sup>th</sup> December, 2014. The Chairman also informed the Committee that the report on the Bill shall be presented to the House on the 10<sup>th</sup> December, 2014.

7. The meeting, thereafter, adjourned at 4:50 p.m.