



DSK Legal Knowledge Center

Updates on

- **Miscellaneous Updates**

MISCELLANEOUS UPDATES

INSURANCE

A. **Disclosures forming part of Financial Statements**

The Insurance Regulatory and Development Authority (“**IRDA**”), vide circular dated May 7, 2009¹, has directed all insurers to provide details of various penal actions taken by various government authorities against them from the financial year 2008-09 onwards, in the format as provided in the said circular.

The information as submitted is required to be duly certified by

the Statutory Auditor of the insurer. For the period of 2008-09, the said disclosures may be made to IRDA through a separate filing. However, that information must be incorporated in the Annual Report of the company with effect from 2009-2010 onwards. A NIL report may be filed in case no penalties have been imposed on the insurer. These disclosures are to be made in addition to the disclosures required to be made under part II of schedules A and B of IRDA (Preparation of Financial Statements and Auditor’s Report of Insurance Companies) Regulations, 2002.

For more information please refer to

http://www.irdaindia.org/circulartoall/disclosures_forming070509.htm

http://www.irdaindia.org/acc_reg_2002.rtf

¹ No.005/IRDA/F&A/CIR/MAY-09

B. **Pension Fund Managers (“PFMs”)/Points of Presence (“POP”)**

The Pension Fund Regulatory and Development Authority (“PFRDA”), vide its circular dated May 11, 2009², in respect to (a) setting-up subsidiaries to take up operations as PFMs; and (b) acting as POP, has prescribed the followings:

- Life Insurance Companies **may** set-up fully owned subsidiaries to act as PFMs;
- **No** Non-Life Insurance Company would be permitted to act as PFMs;
- **No** Insurer may act as POP.

The decision of PFRDA to permit Life Insurance Companies to set-up subsidiaries for PFM is, however, subject to approval on a case to case basis. Any Life Insurance Company intending to set-up a subsidiary to carry out PFM functions must take the explicit prior approval of PFRDA. Further, while approving the application for setting-up 100% subsidiary of the insurance

company for PFMs operations, PFRDA would, at the minimum, impose certain conditions as listed in the said circular.

For more information please refer to

http://www.irdaindia.org/circulartoall/pension_fund_manager110509.htm

C. **Health Insurance for Senior Citizens**

IRDA, vide its circular dated May 25, 2009³, has issued the instructions on health insurance for senior citizens, including the following:

- (i) all health insurance products offered must allow entry at least till 65 years of age. Also, any differences in product specifications for different age groups or for different entry ages must be clearly spelled out upfront in the prospectus and policy documents;
- (ii) if any proposal for health insurance of senior citizens are not accepted, the grounds/ reasons for the same should be conveyed and recorded in writing;

² No.006/IRDA/F&A/CIR/MAY-09

³ CIR/011/3/IRDA/Health/SN/09-10

- (iii) the premium charged for health insurance products should be fair, justified, transparent and duly disclosed upfront; and
- (iv) insurers will reimburse atleast 50% of the cost incurred by the insured in pre-insurance medical examination, in cases where the risk is accepted.

The circular shall come into effect for all policies issued or renewed on or after July 1, 2009 and all General Insurance Companies are required to ensure due compliance with the provisions contained in the said circular. Any failure to do so would render them liable to appropriate action under the provisions of the IRDA Act, 1999, Insurance Act, 1938 and regulations framed thereunder.

For more information please refer to

<http://www.irdaindia.org/IRDA%20circular%20on%20health%20insurance%20for%20senior%20citizens.pdf>

D. Deduction of proportionate Risk Premium within Free-Look Period

The IRDA (Protection of Policyholders' Interests) Regulations, 2002 mandates all Life Insurance Companies to provide the insured with an option to review the terms and conditions of the policy, and in case if he disagrees to the same, to return the policy within a period of 15 days from the date of receipt of policy documents. On exercising the option, he is entitled to a refund of the premium paid. IRDA, vide its circular date May 27, 2009⁴, has directed all Life Insurance Companies not to deduct any proportionate risk premium in cases where the insured exercises the option of returning the policy within the free-look period.

For more information please refer to

<http://www.irdaindia.org/circulartoall/Circular-13.pdf>

⁴ No. IRDA/LIFE/CIR/13/2009

E. Declaration of Bonus under Section 49 of the Insurance Act, 1938

IRDA had issued circulars⁵ dated March 23, 2004 and April 16, 2007 on declaration of bonus by Life Insurance Companies which had set up operations post opening up of the sector.

With a view to facilitating declaration of bonus by an insurance company, where the Life Fund is in deficit, IRDA had laid down the manner of funding of the bonus, subject to specified conditions to be strictly complied with. This special dispensation was available to the insurers only for the first seven financial years, beginning from the year in which the Life Insurance Company commenced operations. IRDA, vide its circular dated May 29, 2009⁶, has decided to allow the life insurers in the private sector to declare bonus to policyholders where the Life Fund is in deficit for a further period of three years i.e., upto the

tenth year of operations commencing from the year in which the Life Insurance business operations are started.

For more information please refer to

http://www.irdaindia.org/cirnonlife/cir_14_29may09.htm

⁵ Circular Nos.: F& A/CIR/011/MAR-04 dated March 23, 2004 and IRDA/F&A/002/Apr-07 dated April 16, 2007

⁶ IRDA/F&A/CIR/014/May-09

DSK Legal Knowledge Center

Contact Details: dsklegal.knowledgecenter@dsklegal.com

Mumbai Office

4th Floor, Express Towers,
Nariman Point,
Mumbai 400 021
India
Tel: (91 - 22) 6658 8000
Fax: (91 - 22) 6658 8001

Delhi Office

46, Aradhana, Chanakyapuri,
New Delhi 110 066
India
Phone: (91 - 11) 2687 1122; 2687 1133;
2687 1144
Fax: (91 - 11) 2687 1155

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