

# THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY (DISTRIBUTION OF SURPLUS) REGULATIONS, 2002<sup>1</sup>

*In exercise of the powers conferred by sections 49 and 114A of the Insurance Act, 1938 (4 of 1938), the authority, in consultation with the Insurance Advisory Committee, hereby, makes the following regulations, namely:—*

**1. Short title and commencement.**—(1) These regulations may be called the Insurance Regulatory and Development Authority (Distribution of Surplus) Regulations, 2002.

(2) They shall come into force from the date<sup>2</sup> of their publication in the Official Gazette.

**2. Definitions.**—(1) In these regulations, unless the context otherwise requires,—

(a) "Act" means the Insurance Act, 1938 (4 of 1938);

(b) "Authority" means Insurance Regulatory and Development Authority established under the provisions of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(c) "participating policyholders" means the holders of "par policies" and " policies with deferred participation in profits", which are defined in the Insurance Regulatory and Development Authority (Actuarial Report and Abstract Regulations) Regulations, 2000;

(d) "non-participating policyholders" means the holders of "non-par policies" which is defined in the Insurance Regulatory and Development Authority (Actuarial Report and Abstract Regulations) Regulations, 2000;

(e) all words and expressions used herein and not defined herein but defined in the Insurance Act, 1938 (4 of 1938), or in the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), or in any rules or regulations made thereunder shall have the meanings respectively assigned to them in those Acts or rules or regulations.

**3. Life funds.**—For the purpose of these regulations, with effect from 1st April, 2003,—

(1) a life insurer registered under section 3 of the Insurance Act, 1938 (4 of 1938), shall be required to maintain separately—

(a) a life fund for participating policyholders, and

(b) a life fund for non-participating policyholders.

1. *Vide* Notification No. 1/IRDA/Reg./12/2002, dated 13th December, 2002, published in the Gazette of India, Extra., Pt. III, Sec. 4, dated 14th December, 2002.

2. Came into force on 14-12-2002.

- (2) A failure to comply with the requirements of sub-regulation (1) above shall mean that the life fund maintained by the insurer shall be for the benefit of the participating policyholders only.

**4. Procedure for distribution of surplus.**—A life insurer may, on the advice of his appointed actuary, reserve a part of the actuarial surplus (also referred to as valuation surplus) arising out of a valuation of assets and liabilities made for a financial year in accordance with Insurance Regulatory and Development Authority (Actuarial Report and Abstract) Regulations, 2000, to its shareholders, which shall be—

- (a) one hundred per cent. in case of a life fund maintained for non-participating policyholders;
- (b) one-ninth of the surplus allocated to policyholders in case of a life fund maintained for participating policyholders:

Provided that an insurer shall, however, be required to obtain prior approval of the authority in cases where the said allocation is not the one-ninth of the surplus:

Provided further that an insurer shall not allocate or reserve exceeding ten per cent. of the said actuarial surplus to its shareholders.