THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (GENERAL INSURANCE – REINSURANCE) REGULATIONS, 2016[1]

In exercise of the powers conferred by section 114A of the Insurance Act, 1938, read with sections 14 and 26 of the Insurance Regulatory and Development Authority Act, 1999, the Authority, in consultation with the Insurance Advisory Committee, hereby makes the following regulations—

1. Short title and commencement.—(1) These regulations may be called the Insurance Regulatory and Development Authority of India (General Insurance - Reinsurance) Regulations, 2016.

(2) These Regulations replace the Insurance Regulatory and Development Authority (General Insurance - Reinsurance) Regulations, 2013.

(3) These regulations shall come into force on the date[2] of their notification in the Official Gazette.

2. Definitions.—In these regulations, unless the context otherwise requires:

(a) 'Act' means the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(b) 'Authority' means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of the Act;

(c) 'Cedant' means (i) an insurer who underwrites and issues an original, primary policy to an insured and contractually transfers (cedes) a portion of the risk to a reinsurer or (ii) a reinsurer who cedes part of contracted risk to a retrocessionaire;

(d) 'Cession' means the part of insurance passed to a reinsurer by the insurer which issued a policy to the original insured or part of contracted risk ceded by a reinsurer to a retrocessionaire;

(e) 'Cover note' is a written document issued by the reinsurer or the reinsurance broker authorized by it, detailing the terms and conditions of the contract;

(f) 'Cross Border Reinsurer' means an insurer/reinsurer who is not registered in India as an insurance company or reinsurance company or foreign reinsurer branch but, does reinsurance business with Indian Insurers/Indian reinsurer, foreign Reinsurer branches;

(g) 'Facultative Reinsurance' means reinsurance of a part of a single policy/risk in which cession is negotiated separately and the reinsurer and the cedant have the option of accepting or declining each individual submission;

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1. *Vide* Notification F. No. IRDAI/Reg/15/127/2016, dated 13th May, 2016, published in the Gazette of India, Extra., Pt., III, Sec. 4, No. 203, dated 17th May, 2016.
2. Came into force on 17-5-2016.

(h) 'Financial Year' for the purpose of these regulations shall be the period starting from 1st April to 31st March;

(i) 'Fronting' means a process by which a direct insurer cedes most of or all of the insurance risk to a reinsurer;

(j) 'Foreign Reinsurer Branch' means a branch of a Foreign Reinsurer who has been granted certificate of registration by the Authority under the Insurance Regulatory and Development Authority of India (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 or Insurance Regulatory and Development Authority of India (Lloyd's India) Regulations, 2016, as amended from time to time;

(k) 'Indian Insurer' for the purpose of these regulations means an Indian Insurance company who has been granted certificate of registration by the Authority under the Insurance Regulatory and Development Authority (Registration of Indian Insurance Companies) Regulations, 2000 notified from time to time to carry out general insurance business or health insurance business;

(l) 'Insurance segments' for the purpose of these regulations, shall mean the following:—

(i) Fire;

(ii) Marine;

(iii) Health (including Personal Accident & Travel);

(iv) Motor;

(v) Miscellaneous;

(vi) Any other segment (under miscellaneous segment) which contributes more than 10 percent of the Gross Written Premium of the Miscellaneous segment of business;

(vii) Any other segment as may be specified by the Authority from time to time.

(m) 'Pool' means any joint underwriting operation of insurance or reinsurance in which the participating insurer/s or reinsurer/s assume a predetermined and fixed share in all business written;

(n) 'Retrocession' means the transaction whereby a reinsurer cedes to another insurer or reinsurer all or part of the reinsurance it has previously assumed;

(o) 'Retention' means the portion of the risk which an insurer/reinsurer assumes for his own account;

(p) 'Reinsurance contract' is the legally binding document on all the parties that provides a complete, accurate and definitive record of all the terms and conditions and other provisions of the reinsurance contract;

(q) 'Treaty' means a reinsurance arrangement between the cedant and the reinsurer, usually for one year or longer, which stipulates the technical particulars and financial terms applicable to the reinsurance of defined class or classes of business;

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

3. Reinsurance Arrangements: Objectives & Procedures.—

(1) Objectives—The Reinsurance Programme of every Indian Insurer/Indian Reinsurer/Foreign reinsurer branch shall be guided by the following objectives to:

(a) Maximize retention within the country;

(b) Develop adequate capacity;

(c) Secure the best possible reinsurance protection/coverage required to protect the interest of the policy holder/insurer at a reasonable cost;

(d) Simplify the administration of business.

(2) Retention policy—

(a) Every Indian insurer/Indian reinsurer/foreign reinsurer branch shall maintain the maximum possible retention commensurate with its financial strength, quality of risks and volume of business.

(b) Every Indian insurer/Indian reinsurer/foreign reinsurer branch shall formulate a suitable retention policy for each insurance segment. In case the insurance segment consists of more than one product, retention policy for each product shall be separately defined.

(c) The Authority may require an Indian insurer/Indian reinsurer/foreign reinsurer branch to justify its retention policy and may give such directions as considered necessary in order to ensure that the Indian insurer/Indian reinsurer/foreign reinsurer branch is not merely fronting for a Cross Border Reinsurer.

(3) Obligatory Cession—Every insurer shall cede such percentage of the sum assured on each policy for different classes of insurance written in India to the Indian reinsurer/s as may be specified by the Authority in accordance with the provisions of Part IVA of the Insurance Act, 1938.

(4) Reinsurance program—

(a) The reinsurance programme of every Indian insurer/Indian reinsurer/foreign reinsurer branch shall commence from the beginning of every financial year.

(b) Every Indian insurer/Indian reinsurer/foreign reinsurer branch shall submit to the Authority, its board approved reinsurance programme along with retention policy for the forthcoming year, 45 days before the commencement of the financial year.

(c) If any amendment is made in the Reinsurance program subsequent to it being filed with the Authority, the Indian insurer/Indian reinsurer/foreign reinsurer branch, shall file with the Authority, the Final Reinsurance Program, together with the approval of the Board of Directors within 30 days of the commencement of the financial year.

(d) The final reinsurance program of the Indian insurer/Indian reinsurer/foreign reinsurer branch shall include but not limited to, the following:—

(i) The parameters considered for fixation of retention limits for every product of each insurance segment.

(ii) Proposed retention limits on every product of each Insurance Segment along with corresponding retention limits in the previous year.

(iii) Levels of Net retention ratio on each Insurance Segments for previous three years.

(iv) Insurance Segment wise, product wise actual premium income for the last financial year and the projected premium income for the forthcoming financial year.

(v) Structure of Reinsurance program with details of Proportional arrangements for each Insurance Segment (including treaty capacity, retention limits, Estimated premium, Reinsurance commission, Event limits etc.) and Non-proportional Arrangements (including EGNPI, Cover limits, Deductible, XL premium, Reinstatement provisions etc.).

(vi) Statement of Reinsurance cost (in terms of quantum as well as percentage to Gross Written Premium) giving details of Gross Written premium, premium ceded on proportional arrangements and ceded on non-proportional arrangements. The statement shall include projected costs for the forthcoming year and the actual costs for the previous two years.

(5) The Indian insurers/Indian reinsurers/foreign reinsurer branches shall ensure that the reinsurance arrangements in respect of catastrophe accumulations are adequate, by using various realistic disaster scenarios. The catastrophe modelling report and the basis on which the quantum of catastrophe protection is purchased for the forthcoming year may be detailed in the Reinsurance program and shall be approved by their Board of Directors. A synopsis of the report, shall be filed with the Authority alongwith the final reinsurance programme.

(6) Every Indian insurer/Indian reinsurer/Foreign Reinsurer Branch shall within 30 days of the commencement of the financial year, file with the Authority a copy of every reinsurance treaty contract wordings and excess of loss cover note in respect of that year together with the list of all reinsurers, their ratings and their shares in the proportional & non-proportional reinsurance arrangement.

(7) Every Indian Insurer/Indian reinsurer/foreign reinsurer branch shall file with the Authority any new reinsurance arrangement, giving full details, documentation, reasons for such an arrangement together with the approval of the Board of Directors within 15 days of approval of the Board. The Indian insurer/Indian reinsurer/foreign reinsurer branch shall further ensure that the renewal of such a reinsurance arrangement coincides with the financial year.

(8) The Authority may, if necessary, call for further information or explanations in respect of the reinsurance programme. The Authority may also, if necessary, direct the Indian insurer/Indian reinsurer/foreign reinsurer branch to carry out changes to the reinsurance programme filed with it and the Indian insurer/Indian reinsurer/foreign reinsurer branch shall incorporate such changes forthwith in their reinsurance programme and submit the revised program to the Authority.

(9) **Cross Border Reinsurers**

(i) Eligibility Criteria: Every Indian Insurer/Indian reinsurer/foreign reinsurer branch shall place their reinsurance business outside India with only those cross border reinsurers based on the following eligibility criteria:—

(a) The cross border reinsurer is a legal entity in its home country, regulated and supervised by its home regulators/supervisors.

(b) The financial strength, quality of the management and adequacy of technical reserving methodologies of the cross border reinsurer should be monitored by its supervisory authority, in the home country.

(c) The cross Border reinsurer having atleast a credit rating of BBB (with Standard & Poor) or equivalent rating of an international rating agency for immediately preceding three years.

(d) The Cross Border Reinsurer should be registered and/or certified by the home regulator of the country of domicile, with which the Government of India has signed Double Taxation Avoidance Agreement.

(e) The Cross Border Reinsurer having solvency margin/capital adequacy not less than as stipulated by the home regulator for previous three continuous years.

(f) The past claims performance of the cross border reinsurer is found to be satisfactory.

(g) Any other requirements as stipulated by the Authority from time to time.

(ii) Reinsurance placements with Cross Border Reinsurers, not fulfilling the above stated eligibility criteria shall require prior approval of the Authority. Under such circumstances, the Indian insurer/Indian reinsurer/foreign reinsurer branch shall, seek approval from the Authority stating sufficient reasons and justifications as to why they propose to place reinsurance business with a cross border reinsurer which does not fulfill the stated eligibility criteria. All such placements shall be reported to the company's board.

(iii) The procedure to be followed for filing information regarding the Cross border reinsurers, participating the reinsurance programs of the Indian Insurer/Indian reinsurer/foreign reinsurer branch shall be governed by the guidelines issued by the Authority, in this regard from time to time.

(10) Based on necessity, and/or Indian market appetite for a class of risk/product, the Indian Reinsurer/s and/or Foreign Reinsurer's Branch/shall organise domestic pools, in consultation with all Indian insurers and/or foreign reinsurer branches on matters relating to objective, basis, limits and terms which are fair to all stakeholders. The arrangements so made shall be submitted to the Authority within three months of the formation of such pools, for approval. The Authority, wherever necessary, shall also advise the Indian reinsurer to organise domestic pools, in collaboration with Foreign Reinsurer's Branches, (if required). These regulations shall equally be applicable for all reinsurance arrangements of the pool. The pool Administrator shall submit the returns, details of Reinsurance arrangement, statements on the performance of the pool, in the manner and periodicity as stipulated by the Authority from time to time.

(11) Cession limits:

(a) Surplus over and above the domestic reinsurance arrangements can be placed with any of the cross border reinsurers, complying with regulation 3(9).

(b) Such placements are subject to the insurance segment-wise limits stipulated under regulation 3(11)(e) of these regulations. These limits define the maximum reinsurance cession that can be made to any particular Cross border reinsurer under any insurance segment.

(c) These cession limits are applicable on reinsurance placements made to Cross Border reinsurers by the Indian insurer/s and retrocession arrangements made by the Indian Reinsurer/s to Cross Border reinsurers.

(d) The cession limits shall also be applicable on all retrocession arrangements made by foreign reinsurer branches with Cross Border Reinsurers.

(e) Insurance segment-wise limit of the total reinsurance premium that may be placed with any one cross border reinsurer shall be as follows:

Rating of Reinsurers (as per Standard & Poor and applicable to other equivalent international rating agencies)	**Overall Limit of cession allowed (Proportional, Non proportional & Facultative arrangements)**
BBB & BBB+ of Standard & Poor	10%
Greater than BBB+ and upto & including A+ of Standard & Poor	15%
Greater than A+ of Standard & Poor	20%

Explanation: The above percentages are to be calculated insurance segment wise, on the total reinsurance premium ceded in India and outside India.

Where it is necessary in respect of any insurance segment to cede a share exceeding the limits specified under regulation 3(11)(e), to any particular cross border reinsurer, the Indian insurer/Indian reinsurer/foreign reinsurer branch shall seek specific approval of the Authority giving reasons for such cession.

(12) Order of Preference for cessions by Indian Insurers, shall be governed by the stipulations made under the Insurance Regulatory and Development Authority of India (Registration and operations of Branch offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015.

(13) Any repatriation of surplus generated by the operation of the branch office of the foreign reinsurer shall be governed by the Insurance Regulatory and Development Authority of India (Registration and operations of Branch offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 or the Insurance Regulatory and Development Authority of India (Lloyd's India) Regulations, 2016, whichever is applicable.

(14) The foreign reinsurer branch shall ensure that they maintain the minimum retention limits stipulated under the Insurance Regulatory and Development Authority of India (Registration and operations of Branch offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015 or the Insurance Regulatory and Development Authority of India (Lloyd's India) Regulations, 2016, whichever is applicable, at all times.

4. **Inward Reinsurance Business.**—(i) Every Indian insurer wanting to write inward reinsurance business shall have a well-defined underwriting policy approved by its Board of Directors for underwriting inward reinsurance business.

(ii) The Indian insurer shall file with the Authority, at least forty five days before the commencement of each financial year, its inward reinsurance underwriting policy stating the classes of business/insurance segments, geographical scope, underwriting limits and profit objective.

(iii) The Indian insurer shall ensure that decisions on acceptance of inward reinsurance business are made by persons with necessary knowledge and experience.

(iv) The Indian insurer shall also file with the Authority any changes to the inward reinsurance underwriting policy as and when a change is made duly approved by its Board of Directors.

5. **Outstanding Loss Provisioning.**—(1) Every Indian insurer/Indian reinsurer/foreign reinsurer branch shall make outstanding claims provisions for every reinsurance arrangement accepted on the basis of loss information advices received from Brokers/Cedants and where such advices are not received, on an actuarial estimation basis.

(2) In addition, every Indian insurer/Indian reinsurer/foreign reinsurer branch shall make an appropriate provision for incurred but not reported (IBNR) claims on its reinsurance accepted portfolio on actuarial estimation basis.

6. Every Indian insurer/Indian reinsurer/foreign reinsurer branch shall be required to submit to the Authority information and returns relating to its reinsurance transactions in such forms and manner as the Authority may stipulate from time to time or require together with its annual accounts.

7. Power of the Authority to issue clarifications.—In order to remove any doubts or the difficulties that may arise in the application or interpretation of any of the provisions of these Regulations, the Chairperson of the Authority may issue appropriate clarifications or guidelines as deemed necessary.
