

सी.जी.-जी.जे.-अ.-15042023-245187 CG-GJ-E-15042023-245187

असाधारण EXTRAORDINARY

भाग III—खण्ड 4 PART III—Section 4

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं. 236] No. 236] नई दिल्ली, बृहस्पतिवार, अप्रैल 13, 2023/चैत्र 23, 1945 NEW DELHI, THURSDAY, APRIL 13, 2023/CHAITRA 23, 1945

अंतरराष्ट्रीय वित्तीय सेवा केंद्र प्राधिकरण

अधिसूचना

गांधीनगर, 11 अप्रैल, 2023

अंतरराष्ट्रीय वित्तीय सेवा केंद्र प्राधिकरण (पुनर्बीमा) विनियम, 2023

फा. सं. आईएफएससीए/2022-23/जीएन/आरईजी036.—अंतरराष्ट्रीय वित्तीय सेवा केंद्र प्राधिकरण अधिनियम, 2019 की धारा 12 और 13 के साथ पठित धारा 28 और बीमा अधिनियम, 1938 की धारा 114क की उप-धारा (2) के खंड (यघ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, अंतरराष्ट्रीय वित्तीय सेवा केंद्र प्राधिकरण निम्नलिखित नियम बनाता है, अर्थात् -

अध्याय 1

सामान्य

- 1. संक्षिप्त शीर्षक, प्रारंभ और प्रयोज्यता -
 - (1) इन नियमों को अंतरराष्ट्रीय वित्तीय सेवा केंद्र प्राधिकरण (पुनर्बीमा) विनियम, 2023 कहा जाएगा।
 - (2) ये नियम राजपत्र में इनके प्रकाशन की तारीख से लागू होंगे।
 - (3) ये विनियम सभी अंतरराष्ट्रीय वित्तीय सेवा केंद्र बीमा कार्यालयों (आईआईओ) पर लागू होंगे, जब तक अन्यथा निर्दिष्ट न हो।

2450 GI/2023 (1)

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY NOTIFICATION

Gandhinagar, the 11th April, 2023

International Financial Services Centres Authority (Re-insurance) Regulations, 2023

F. No. IFSCA/2022-23/GN/REG036.—In exercise of the powers conferred by Section 28 read with sections 12 and 13 of the International Financial Services Centres Authority Act, 2019, and clause (zd) of sub-section (2) of Section 114A of the Insurance Act, 1938, the International Financial Services Centres Authority hereby makes the following regulations, namely -

CHAPTER I

General

1. Short title, commencement and applicability -

- (1) These regulations may be called the International Financial Services Centre Authority (Re-insurance) Regulations, 2023.
- (2) These regulations shall come into force from the date of their publication in the Official Gazette.
- (3) These regulations shall be applicable to all International Financial Services Centres Insurance Offices (IIOs) unless otherwise specified.

2. Objectives –

To provide framework for oversight and control of inward and outward arrangement of re-insurance business by the International Financial Service Centre Insurance Offices (IIOs).

3. **Definitions** –

- (1). In these regulations, unless the context otherwise requires
 - (a) 'accounting year' shall have the same meaning as assigned to it under clause (ii) of sub-regulation
 (1) of regulation 4 of the International Financial Services Centres Authority (Preparation and Presentation of Financial Statements of International Financial Service Centre Insurance Offices)
 Regulations 2022;
 - (b) 'Act' means the International Financial Services Centres Authority Act, 2019 (50 of 2019);
 - (c) 'Alternate Risk Transfer' or 'ART' means non-traditional structured re-insurance solutions tailored to suit specific needs and profile of an IIO, Indian insurer, foreign insurer or foreign reinsurer;
 - (d) 'Authority' or 'IFSCA' means the International Financial Services Centres Authority established under sub-section (1) of Section 4 of the Act;
 - (e) 'board' means the board of directors of an IIO; or the Board of the Parent Entity of an IIO, in case the IIO is in an unincorporated form;
 - (f) 'cedant' means an IIO who underwrites direct insurance business and contractually cedes a part of its risk to a re-insurer;
 - (g) 'cession' means the part of risk passed to a re-insurer by the cedant;
 - (h) 'cover note' means a written document, detailing the terms and conditions of the re-insurance contract, issued by a re-insurer, composite or re-insurance broker authorised by the re-insurer to the cedant or retrocessionaire;
 - 'Domestic Tariff Area' or 'DTA' means the whole of India (including the territorial waters and continental shelf) but does not include the areas of the Special Economic Zones established under The Special Economic Zones Act, 2005 (28 of 2005);
 - (j) 'foreign insurer or foreign re-insurer'shall have the same meaning as assigned to it under clause
 (h) of sub-regulation (1) of regulation 3 of the International Financial Services Centres Authority
 (Registration of Insurance Business) Regulations 2021;
 - (k) 'fronting' means a process of transferring risk in which an IIO cedes or retro-cedes most or all of the assumed risk to a re-insurer or retrocessionaire;

- (1) 'Indian Insurer', for the purpose of these regulations, means an 'insurer' as defined under sub-section (9) of section 2 of the Insurance Act, 1938, who has been granted certificate of registration by the Insurance Regulatory and Development Authority of India;
- (m) 'insurance pool' means a joint underwriting operation of insurance or re-insurance business, in which the participating IIOs assume a predetermined share in all business written;
- (n) 'IRDAI' means The Insurance Regulatory and Development Authority of India constituted under the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);
- (o) 'insurance segment', for the purpose of these regulations, means insurance or re-insurance business transacted by an IIO in any one or more of the following segment:
 - (i) Fire (Other than Oil & Energy);
 - (ii) Marine Hull;
 - (iii) Marine Cargo;
 - (iv) Engineering;
 - (v) Aviation;
 - (vi) Motor;
 - (vii) Health (including Personal Accident & Travel), other than policies issued by insurers transacting Life Insurance business;
 - (viii) Crop;
 - (ix) Trade Credit;
 - (x) Oil & Energy;
 - (xi) Liability;
 - (xii) Miscellaneous;
 - (xiii) Life (including health insurance policies issued by Life Insurers);
 - (xiv) Any other segment (under Miscellaneous segment) which contributes more than ten percent of the Gross Written Premium of the Miscellaneous segment;
 - (xv) Any other segment as may be specified by the Authority from time to time.
- (p) 'International Financial Services Centre Insurance Office' or 'IIO' shall have the same meaning as assigned to it under clause (k) of sub-regulation (1) of regulation 3 of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations 2021;
- (q) 'Parent Entity' or 'Head Office' shall have the same meaning as assigned to it under clause (q) of sub-regulation (1) of regulation 3 of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021;
- (r) 'Re-insurance' shall have the same meaning as assigned to it under sub-section (16B) of section 2 of the Insurance Act, 1938;
- (s) 're-insurance contract' refers to a commercial agreement which is legally binding on all the parties evidenced by a Re-insurance Slip or Cover Note or any other suitable document;
- (t) 're-insurance slip' refers to a document which provides the abridged details of the risk, terms and conditions offered for re-insurance;
- (u) 're-insurer' for the purpose of these regulations means an IIO, Indian Insurer, foreign insurer or foreign re-insurer carrying out re-insurance business;
- (v) 'retention' means the portion of the risk which an IIO assumes for its own account;
- (w) 'retrocession' means a re-insurance transaction whereby a part of assumed re-insured risk is further ceded to another re-insurer;
- (x) 'treaty' means a re-insurance contract between a cedant and a re-insurer, or between a re-insurer and a retrocessionairewhich stipulates the technical particulars and financial terms applicable to the re-insurance of defined class(es) or segment(s) of business;

(2). Words and expressions used and not defined in these regulations but defined in the Act or Acts mentioned in the First Schedule to the Act or any rules, regulations or notifications made thereunder, shall have the same meanings respectively assigned to them in those Acts, rules or regulations or any statutory modification or re-enactment thereto, as the case may be.

CHAPTER II

Re-insurance Strategy and Objectives of Re-insurance Programme

4. Re-insurance strategy and re-insurance programme -

- (1) Every IIO shall develop and document its Re-insurance Strategy and Re-insurance Programme (RSRP), which shall form an integral part of the IIO's overall underwriting strategy and risk management philosophy.
- (2) The policies and procedures for selecting and monitoring re-insurance arrangements as well as management responsibilities and controls including re-insurance management systems shall be included in the RSRP.
- (3) An IIO, ceding or retroceding the risk shall *inter-alia* clearly document the risk concentration levels and cession or retrocession limits as per its risk appetite.
- (4) The senior management of the IIO or Parent Entity of the IIO, as the case may be, shall
 - (a) develop, implement and maintain RSRP which shall be relevant to the operations of the IIO and shall ensure that the IIO has sufficient resources to meet their business obligations;
 - (b) formulate operational policies and procedures for implementing the RSRP;
 - (c) develop clear methodologies for evaluating re-insurance arrangements of the IIOs, including but not limited to -
 - (i) identification of tolerance to risk;
 - (ii) identification of the segment-wise risk retention levels vis-à-vis tolerance to risk with appropriate re-insurance arrangements;
 - (iii) selection of the panel of re-insurers used, including consideration of diversification and credit worthiness of the re-insurers;
 - (iv) management of all possible concentration of risks with respect to a particular industry, geographical region, product type, and/or single insured in the insurer's underwriting books;
 - (v) involvement of re-insurance brokers if any, including their role in structuring the re-insurance arrangements;
 - (vi) the process for monitoring, reviewing and updating the RSRP;
 - (vii) management of credit and liquidity risk;
 - (viii) management of legal risk arising from the re-insurance contract;
 - (d) develop robust internal control systems to ensure that all business activities are carried out in compliance with the RSRP;
 - (e) develop effective reporting systems to satisfy the requirements specified by the Board;

Explanation - The expression "senior management" means personnel of the IIO or Parent Entity of IIO, as the case may be, who are members of its core management team excluding Board of Directors, comprising all members of management one level below the executive directors, including the functional heads.

(5) The Board of the IIO shall approve accounting year wise RSRP within the timelines as may be specified by the Authority; Provided that in case of an IIO in an unincorporated form, its Parent Entity shall provide details of RSRP designed for the IIO.

(6) The approved RSRP shall be submitted to the Authority, as and when directed by it.

CHAPTER III

- Re-insurance contract and Risk Transfer Any contract classified as a re-insurance contract shall have the following characteristics:—
 - (1) It shall meet the risk transfer requirements for particular accounting year;
 - (2) It protects the ceding insurer or retrocessionaire from negative financial impacts arising from the underlying insurance business ceded;

Explanation:

- In the cases where the ART arrangement is in the nature of re-insurance coupled with financing arrangement, and such components are capable of separation, each element should be accounted for as per the accounting standards followed by the IIO;
- (ii) In the cases where the aforesaid components are not separable, the entire ART arrangement shall be treated as a financial transaction and accounted for accordingly. All the IIOs shall account for the ART arrangements by looking into the "Substance over Form", and such arrangements shall be accounted for as per the accountings standards followed by IIO.

CHAPTER IV

Re-insurance and Retrocession Requirements

6. Retention Policy -

- (1) Every IIO shall formulate a segment-wise retention policy duly approved by its Board and shall maximise the retention commensurate with its financial strength and quality of risk while ensuring that the re-insurance arrangements are not fronting;
- (2) The Authority may require an IIO to justify its retention policy and may give such directions, as considered necessary;
- (3) Every IIOs shall comply with minimum retention requirements as may be specified by the Authority.

7. Placement of re-insurance business:

- (1) Every IIO, before placing of re-insurance business (cession or retrocession) with the foreign insurers or foreign re-insurers, shall ensure that -
 - (i) such foreign insurer or foreign re-insurer and its promoters, partners or controlling shareholders are not from the jurisdiction identified in the public statement of Financial Action Task Force as:
 - (a) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or
 - (b) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies;
 - (ii) such foreign insurer or foreign re-insurer is duly authorised by its home country regulatory or supervisory authority to transact re-insurance business and engaged in transacting re-insurance business during the immediate past three continuous years; and
 - (iii) the home country of such foreign insurer or foreign re-insurer has signed Double Taxation Avoidance Agreement (DTAA) with India.

CHAPTER V

MISCELLANEOUS

8. Insurance Pools:

 Any IIO may initiate proposal for formation of an insurance pool and submit the same with the Authority for obtaining prior approval;

- (2) The Authority, after examining various factors including but not limited to its objectives, basis, capacity for participation, limits of liability and terms and conditions, may permit for formation of insurance pool;
- (3) The Authority, wherever necessary, may also suo-moto direct IIOs to create and participate in insurance pools;
- (4) Constitution of the insurance pools and appointment of administrator of such insurance pool shall be in the manner as directed by the Authority;
- (5) The insurance pool administrator shall submit the returns, details of Re-insurance arrangement, statements on theperformance of the pool, in the manner and periodicity as stipulated by the Authority from time to time.
- 9. **Reporting requirements**: An IIO shall furnish information related to inward and outward re-insurance arrangements, as the case may be, to the Authority, in such manner, interval and in such form, as may be specified by the Authority.

10. Power to specify procedure, etc.

For the purpose of implementation of these regulations and matters incidental thereto, the Authority may specify norms, procedures, processes and manners for compliance by IIOs.

11. Power to remove difficulties and relax strict enforcement of the regulations:

- (1) In order to remove any difficulty in the application or interpretations of the provisions of these regulations, the Authority may issue clarifications through guidance notes or circulars.
- (2) On an application, received along with the specified non-refundable processing fees, the Authority, may for the reasons to be recorded in writing, relax the strict enforcement of any of the provisions of these regulations.

12. Non-applicability of certain regulations and savings:

- (1) On and from the commencement of these regulations, the Insurance Regulatory and Development Authority (Re-insurance) Regulations, 2018 and, circulars or guidelines issued thereunder shall cease to apply in International Financial Services Centres.
- (2) Notwithstanding anything contained in sub-regulation (1), anything done or any action taken or purported to have been done or taken under the regulation, circulars or guidelines mentioned in sub-regulation (1), before the commencement of these regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations.
- (3) An IIO operating in an International Financial Services Centre prior to the commencement of these regulations, shall comply with the additional requirements specified in these regulations, if any, within a period of three months from the of commencement of these regulations or within such extended period as may be specified by the Authority.

INJETI SRINIVAS, Chairperson [ADVT.-III/4/Exty./016/2023-24]