

Circular

No: IRDA/CHM/CIR/ ETASS/ 142/08/ 2010

August 29, 2010

**Re: Exposure Draft on Electronic Transaction and Settlement System Regulations**

Inter-company balances in reinsurance and co insurance business have been growing and have reached a very high level. The main reason appears to be the inability of the parties to the transactions to agree with the balances. This is mainly because each party stores the information within its system in different ways and with different reference numbers. So, it requires a positive effort to reconcile the two sets of accounts and track the transactions within the two parties' books. The problem is rendered more difficult because reconciliation of balances requires cooperation between the two parties to the transactions to resolve the matter.

It is also seen that the documentation available with the brokers and insurers is rudimentary and does not stand the audit scrutiny. Consequently the reconciliation of accounts poses serious problem leading to several undesirable practices.

The Authority is constrained to note that the balances can have serious implications for the liquidity of several entities in the sector. In order to overcome this problem, it is proposed to induce the insurers and reinsurance brokers involved to move over to a computerised system of administration and settlement of accounts in respect of all inter-company transactions, both coinsurance and reinsurance.

The basic features of the draft regulations are as under

- It provides for setting up of a service company that will undertake the task of creating an electronic transaction administration and settlement system for quick and efficient settlement of reinsurance treaty, facultative, coinsurance and such other placements by whatever name they are called between reinsurers, insurers and brokers.

- The company's shareholders shall be Indian reinsurers, insurers and insurance brokers
- Manner of grant of certificate of registration
- List of activities that it will undertake
- IT Systems
- Maintenance of confidentiality of information

An exposure draft of proposed Regulation on **Electronic Transaction and Settlement System Regulations** is posed to the industry councils and placed on the website of the Authority to seek the comments of Insurers, Insurance Brokers, Reinsurers and other stakeholders so as to reach the Authority on or before 10<sup>th</sup> September, 2010. The comments of the all the stake holders will be placed before the Insurance Advisory Committee and the Board of the Authority for their consideration.

The comments on the said exposure draft may be forwarded to Mr. Randip Singh Jagpal, Joint Director or to email id [randip@irda.gov.in](mailto:randip@irda.gov.in)

**A Giridhar**  
**Executive Director**

## **Draft Regulations for electronic transaction administration and settlement system**

In exercise of the powers conferred by section 114A of the Insurance Act, 1938, 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, namely:

### **1. Short title and commencement :**

- (1) These regulations may be called the Insurance Regulatory and Development Authority (Electronic Transaction Administration and Settlement System) Regulations, 2010.
- (2) These regulations shall come into force on the date of their notification in the Official Gazette.
- (3) These regulations shall apply to all insurers, reinsurers and insurance brokers carrying on reinsurance, coinsurance and such other business by whatever name called business in India.

### **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 established under sub-section (1) of Section 3 of the Act;
- c) 'Service Company' shall mean an insurance intermediary granted a certificate of registration by the Authority
- d) 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 there under shall have the meanings respectively assigned to them in those Acts or rules as the case may be.

### **3. Objective and Utilization of Electronic Transaction and Administration System**

- a. The objective of creating an electronic transaction administration and settlement system is to provide an electronic platform on which the treaty, facultative and coinsurance placements are settled by reinsurers, insurers and brokers so that these transactions can be tracked by the Authority in order to bring about efficiency and accuracy.
- b. No insurer, reinsurer (foreign and domestic) and insurance broker (reinsurance, composite, foreign) shall hence forth conduct transactions, pertaining to reinsurance, coinsurance and such other business by whatever name called, by any other means other than using the electronic transaction administration and settlement system.

### **4. Fee to be paid to the Service Company**

The service company shall meet its running expenses with the charge on transactions and aim for meeting expenses plus 10% margin for development.

### **5. Constitution of the Service Company**

- a. Only a company with a share capital of Rs 51 crores and registered under the Companies Act, 1956 can function as a Service Company.
- b. The main object of the service company shall be to create an electronic transaction administration and settlement system for quick and efficient settlement of reinsurance treaty, facultative, coinsurance and such other placements by whatever name called between reinsurers, insurers and brokers. The company shall not conduct any other business.
- c. The service company shall be promoted by National reinsurer, insurers and composite/reinsurance brokers.
- d. 51% of the paid-up equity capital shall be held by the National reinsurer, 34% by the insurers and the balance 15% by the reinsurance/ composite brokers.
- e. The percentage shareholding of the insurers shall be divided equally over the number of insurers.
- f. Similarly the percentage shareholding shall be equally divided equally over the number of brokers.

- g. In case the members are not able to subscribe to the shares of the service company, then the Authority shall have the powers to redistribute the percentage shareholding to other shareholders holders.
- h. The service company shall apply to the Authority in the form – IRDA – SRC-1 appended to the regulations.
- i. It shall be granted a certificate of registration by the Authority on completion of formalities in the form – IRDA – COR – 1.
- j. The application shall be accompanied by a fee of Rs 50,000.
- k. The certificate of registration shall be issued for a period of 5 years.
- l. The Service Company shall pay an annual fee of Rs 10 lakhs to the Authority
- m. It shall take out an professional indemnity insurance from one of the Indian insurers for an amount equal to \_\_\_\_ crs.

## **6. Fit and proper criteria**

- a. Every Service Company shall appoint, with due intimation to the Authority, from among its directors or senior employees, a Chief Executive Officer (CEO) who shall be responsible for the proper day to day administration of the activities of the Service Company.
- b. He shall not be:
  - i. a person of unsound mind;
  - ii. an undischarged insolvent;
  - iii. a person who had been subjected to a term of imprisonment for a period of three months by a court of competent jurisdiction on grounds of misconduct, misfeasance, forgery etc.
- c. The CEO shall possess a degree in arts or science or commerce or management or any other degree specified by the Authority.
- d. The CEO shall also possess sufficient experience in the area of IT and insurance or reinsurance or accounts.

## **7. Suspension or cancellation of certificate of registration**

- a. A certificate of registration granted to the Service Company may after due notice be suspended or cancelled by the Authority for one or more of the following reasons:
  - i. conducts its business in a manner prejudicial to public interest;
  - ii. fails to furnish any information as required by the Authority relating to its insurance business;

- iii. does not submit periodical returns as required under the Act or by the Authority;
  - iv. does not cooperate in any inquiry conducted by the Authority;
  - v. breached the conditions relating to the code of conduct;
  - vi. breaches the conditions relating to IT Systems;
  - vii. breaches the conditions relating to confidentiality of information;
  - viii. the financial conditions has deteriorated and that Service Company cannot function effectively;
  - ix. breaches any other condition which is material to the functioning of the electronic transaction and settlement system.
  - x. there is violation of any directions issued by the Authority under the Act or these regulations
- b. if the Authority has reasons to believe that the affairs of the service company shall be conducted in a manner prejudicial to the interest of the insurance sector, then the Authority may cause the company to be taken over and appoint a manager to manage the affairs of the service company under the direction and control of the Authority.
  - c. Before proceeding to suspend or cancel a certificate of registration granted to a Service Company, the Authority shall grant a reasonable opportunity of being heard to the Service Company.
  - d. Every order made by the Authority shall be in writing, stating clearly the reasons for the suspension or cancellation of the certificate of registration and the order shall be served on the Service Company as soon as same is made.
  - e. A Service Company whose certificate of registration has been suspended or cancelled in terms of these regulations may file a review application with the Authority within 30 days of the receipt of the order suspending or cancelling the certificate of registration.
  - f. Within reasonable period of the receipt of the application for review but not later than 90 days thereof, the Authority shall dispose of the application after affording the applicant a reasonable opportunity of being heard.

## **8. Constitution of Committees of the Service Company**

- a. The shareholders of the Service Company shall appoint its Board of Directors to conduct its affairs in a be appointed by shareholders
- b. There shall be a nominee of IRDA as permanent member of Board of Directors.
- c. The committee of management of the service company shall be elected by members.

- d. The Service Company shall appoint Technical Committees on need basis.
- e. All decisions shall be made in consultation with committees of underwriters or claims managers drawn from member companies

## **9. List of Activities of the Service Company**

- a. The scope of functions of the service company shall include coinsurance, reinsurance and such other transactions by whatever name called among Indian insurers, Indian brokers and Reinsurers joining the system.
- b. While undertaking coinsurance activity, the Service company shall perform the following minimum tasks:
  - i. Will take over as soon as client gives firm order to insure and decides on coinsurers and their shares.
  - ii. Will handle underwriting information, accounting of premium and commission;
  - iii. Will handle intimation to settlement of claims;
  - iv. Will handle endorsements on lines similar to original insurance.
- c. While undertaking reinsurance activity, the Service company shall perform the following minimum tasks:
  - i. Will handle placement among members both for ceding co and for placing broker who is member
  - ii. Will follow up for closings and settlement & process settlement with reinsurers who are members
  - iii. Will handle endorsements and changes in reinsurance shares, if necessary
  - iv. Will handle claims from intimation to payment, for reinsurers' account and handle related settlements
  - v. Will build up database
- d. Technical Activities
  - i. Design data input forms for coinsurance underwriting information to coinsurance in respect of policy, endorsement, claims intimation, claims approval and claims payment and miscellaneous communications in respect of the risk.
  - ii. Design data input forms for placement slip, closing particulars, alteration advice, endorsement closing, claims intimation, claims payment advice, salvage or recovery advice and miscellaneous communications in respect of the risk
  - iii. Decide on the design of the database and different ways in which it can be accessed; decide on maintenance of historic data and record of important

communications relating to a risk and minutes of any meetings of underwriters in respect of that risk

- iv. Decide on control of access to data – who can access, how it will be monitored and audit trail
- e. Administration of transactions
  - i. Design the communication paths and response messages and their recording in respect of placement of reinsurance. Design the process and documentation flow for closings, endorsements and claims and maintenance of records.
  - ii. Design the process and documentation flow in respect of coinsurance transactions and maintenance of related records.
  - iii. Design the structure and format of inter-company accounts and how entries will be posted into it and how the database in respect of transactions can be accessed.
  - iv. Design the settlement of accounts procedures. Enable reconciliation of accounts with member's books.
  - v. Design management reports and statistical reports on the working of ETASS for information of ETASS management and for members.
  - vi. Decide on all the warning messages that should be generated in respect of all processes and to whom they will be sent.
- f. Settlement of balances
  - i. Design the monthly transaction summary and deriving the net balance between each member and all other members and ETASS
  - ii. Decide on process of verification of entries and validation of the amount due or payable by each member.
  - iii. Decide on procedure for payment of the net balance to ETASS or receiving payment of the net balance from ETASS each month. Consider using ECS procedures for electronic transfer of funds
- g. Establishment of payment gateway
  - i. the Service Company shall establish payment gateways in such a manner that the funds are transferred in a seamless manner from one entity to another.
  - ii. Necessary safeguards shall be put in place to ensure safety, security and accuracy of these transactions.

## **10. IT Systems of the Service Company**

- a. The Service Company shall have the state of art software platform and shall take steps on ongoing basis to constantly review and upgrade the system.
- b. The system shall preferably be web enabled with adequate security.
- c. It shall the most modern upto date standards of security.
- d. There shall be a simultaneous back up facility with contingency planning for disasters.
- e. It shall support electronic fund transfer amongst members in order to improve efficiency and accuracy.
- f. The system so designed shall have the ability to communicate with individual member's system seamlessly,
- g. The system so designed shall be capable of building database with defined rules of access.
- h. The system shall be scalable as volume of transactions increases.
- i. All activities of the system shall be subject to strict security of access.

## **11. Code of Conduct for the Service Company**

1. A Service Company granted certificate of registration under these regulations shall act in the best professional manner.
2. It shall employ technical underwriting and claims staff to scrutinize documents.
3. In particular and without prejudice to the generality of the provisions contained above, it shall be the duty of the Service Company, its Chief Executive Officer and its employees or representatives to :-
  - a. be independent of the shareholders
  - b. be sworn to confidentiality
  - c. be governed by their own regulations and conditions of service
  - d. bring to the notice of its Board of directors or the Authority, any adverse report or inconsistencies or any material fact that is relevant for the service company's functions;
  - e. obtain all the requisite documents pertaining to the execution of the reinsurance, coinsurance or any other such contract by whatever name so called;
  - f. render necessary assistance specified under the agreement between the service company and the members in complying with the requirements for conclusion of the transactions;
  - g. conduct itself /himself in a courteous and professional manner;

- h. refrain from acting in a manner, which may influence directly or indirectly the insured/ policyholder of a particular insurance company to shift the insurance portfolio from the existing insurance company to another insurance company;
- i. refrain from trading on information and the records of its business;
- j. maintain the confidentiality of the data collected by it in the course of its agreement;
- k. follow the guidelines/directions that may be issued down by the Authority from time to time.

## **12. Maintenance and Confidentiality of information**

- a. The Service Company shall maintain proper records, documents, evidence and books of all transactions carried out by it on behalf of an insurance, reinsurance or a broker company in terms of its agreement.
- b. These books and records shall be maintained by it in accordance with accepted professional standards of record keeping and for a period of not less than fifteen years.
- c. Such records, documents, evidence, books, etc., and the information contained therein shall be available to the insurance, reinsurance and broker company and the Authority and access to them shall not be denied by the Service Company on any ground.
- d. Every Service Company shall, in maintaining the records in terms of sub-regulation (a), (b) and (c) follow strictly the professional confidentiality between the parties as required, but this does not prevent the Service Company from parting with the relevant information to any Court of Law/ Tribunal, the Government, or the Authority in the case of any investigation carried out or proposed to be carried out by the Authority against the insurance company, Service Company or any other person or for any other reason.
- e. If the licence granted to the Service Company is either revoked or cancelled in terms of these regulations, the data collected by the Service Company and all the books, records or documents, etc., relating to the business carried on by it with regard to an insurance company, shall be handed over to that insurance company by the TPA forthwith, complete in all respects.

## **13. Reports to the Authority**

- a. The Service Company shall furnish to the insurance company and the Authority an annual report and any other return, as may be, required by the Authority on its activities.

- b. The Annual Report, duly verified by a director of Service Company and the Chief Executive Officer shall be submitted within a period of sixty days of the end of its financial year or within such extended time as the Authority may grant.
- c. The Service Company shall submit to the Authority information, statistics and other MIS reports in the forms as the Authority may specify from time to time.

#### **14. Grievance Redressal**

- a. An insurers, reinsurers (foreign and domestic) and insurance brokers (reinsurance, composite, foreign) who wish to lodge a complaint against the services rendered by the Service Company may report the matter to the grievance cell of the Service Company.
- b. A grievance of the Service Company against members shall be taken up with the respective company.
- c. In case of the grievance is not resolved satisfactorily the same shall be escalated to the Authority and the Authority shall take necessary steps for expeditious resolution of the same.

#### **15. Miscellaneous Provisions**

- g. The Authority may, from time to time, constitute Committees consisting of members drawn from various sources including the insurers, reinsurers, brokers, Authority, or any other persons as may be decided by the Authority to look into the proper and efficient performance of the Service Company.
- h. The Service Company shall also make available to the Authority for inspection, copies of all contracts with insurers, reinsurers and brokers.
- i. If any person fails to furnish any document, statement, return, etc., to the Authority, the same shall be construed as a non-compliance of the Act.