

CHAPTER 4

REGULATORY ASPECTS OF INSURANCE AGENTS

Chapter Introduction

In this chapter, we discuss Regulatory aspects of Insurance agents.

Learning Outcomes

A. Regulations of Insurance Agents

A. Regulations of Insurance Agents

Appointment of Insurance Agent regulations came into force with effect from 1st April 2016.

The following definitions are relevant.

1. Definitions:

- 1) “Act” means the Insurance Act, 1938 (4 of 1938) as amended from time to time.
- 2) “Appointment Letter” means a letter of appointment issued by an insurer to any person to act as an insurance agent.
- 3) “Appellate Officer” means an officer authorised by the Insurer to consider and dispose representations and appeals received from an Insurance Agent.
- 4) “Insurance Agent” means an individual appointed by an insurer for the purpose of soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance.
- 5) “Authority” means the Insurance Regulatory and Development Authority of India established under the provisions of Section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).
- 6) “Composite Insurance Agent” means an individual who is appointed as an insurance agent by two or more insurers subject to the condition that he/she shall not act as insurance agent for more than one life insurer, one general insurer, one health insurer and one each of the mono-line insurers.
- 7) “Centralised list of Agents” means a list of agents maintained by the Authority, which contains all details of agents appointed by all insurers.
- 8) “Centralised list of black listed agents” means list of agents maintained by the Authority whose appointment is cancelled/suspended by a designated official of insurer on grounds of violation of code of conduct and / or fraud.
- 9) “Designated Official” means an officer authorised by the Insurer to make Appointment of an individual as an Insurance Agent.
- 10) “Examination Body” means an Institution, which conducts pre-recruitment tests for insurance agents and which is duly recognised by the Authority.
- 11) “Mono-Line Insurer” for the purpose of these Regulations means insurer as defined under section 2(9) of Insurance Act, 1938 and carrying on one particular specialized line of business such as agriculture insurance, export credit guarantee business.
- 12) “Multilevel Marketing Scheme” means any scheme as defined in explanation to Section 42A of the Act.

2. Appointment of Insurance Agent by the Insurer:

- 1) An applicant seeking appointment as an insurance agent of an Insurer shall submit an application in Form I-A to the Designated Official of the Insurer.
- 2) The Designated Official of the insurer, on receipt of the application, shall satisfy himself that the applicant:-
 - a) Has furnished the Agency Application in Form I-A complete in all respects;
 - b) Has submitted the PAN details along with the Agency Application Form;
 - c) Has passed the insurance examination as specified under Regulations 6;
 - d) Does not suffer from any of the disqualifications mentioned in Regulation 7;
 - e) Has the requisite knowledge to solicit and procure insurance business; and capable of providing the necessary service to the policy holders;
- 3) The Designated Official shall exercise due diligence in verifying the agency application and ascertaining that the applicant does not hold agency appointment for more than one life insurer, one general insurer, one health insurer and one each of the mono-line insurers and is not in the centralised list of blacklisted agents.
- 4) **The Designated Official shall also verify**
 - a) The centralised list of agents maintained by the Authority with the PAN Number of the applicant to ascertain the information as stated above.
 - b) The centralised list of black listed agents maintained by the Authority to ascertain that the applicant is not black listed.
- 5) The Designated Official on satisfying himself that the applicant has complied with all the conditions mentioned in Regulation above, and also does not suffer from any of the disqualifications mentioned in sub-section (3) of Section 42 of the Act, may process the agency application and grant appointment to the applicant as an insurance agent by issuing an appointment letter within 15 days of receipt of all documents from the applicant. The Designated Official shall allot an agency code number to the appointed agent and the agency code number shall be prefixed by the abbreviation of the insurer's name.
- 6) The agency appointment letter issued as mentioned above shall lay down the terms of appointment covering all conditions governing appointment and functioning of the applicant as insurance agent and the code of conduct as stated below. The letter of appointment shall be dispatched

not later than 7 days after the appointment of the agent as mentioned above.

- 7) The applicant so appointed as an insurance agent shall be provided an identity card, by the insurer which shall identify the agent with the insurer whom he/she is representing as an agent.
- 8) The Designated Official may refuse to grant Agency Appointment to any applicant if the applicant does not fulfil any of the conditions mentioned in these Regulations. The Designated Official shall communicate the reasons for refusal for appointment as agent to the applicant in writing, within 21 days of receipt of the application.
- 9) An applicant who is aggrieved by the decision of the Designated Official refusing to grant the agency appointment may submit a review application to the appellate officer designated by the insurer for review of the decision. The insurer shall designate an Appellate Officer to consider the review application of the applicant. The Appellate Officer shall consider the application and communicate the final decision in writing within 15 days of receipt of the review application.

3. Appointment of Composite Insurance Agent by the insurer:

- 1) An applicant seeking appointment as a 'Composite Insurance Agent' shall make an application to the Designated Official of respective life, general, health insurer or mono-line insurer as the case may be, in the 'Composite Agency Application Form I-B. The Designated Official of the respective insurers shall deal with the application in the manner and procedure outlined above.

4. Insurance Agency Examination:—

- 1) An applicant shall pass in the Insurance Agency Examination conducted by the Examination Body in the subjects of Life, General, or Health Insurance as the case may be, as per the syllabus prescribed by the Authority to be eligible for appointment as an insurance agent. The insurer shall provide the necessary assistance and guidance to the candidates to equip them with adequate insurance knowledge required to qualify in the agency examination.
- 2) The applicant who has successfully passed the Insurance Agency Examination as mentioned in above shall be issued a pass certificate by the Examination Body. The pass certificate issued by the Examining Body shall be in force for a period of twelve months, for the purpose of seeking appointment as an agent with any insurer for the first time.
- 3) Only candidates who have qualified in the Insurance Agency Examination as mentioned above and who hold a valid pass certificate issued by the

Examination Body shall be eligible to be considered for appointment as agents.

5. Disqualification to act as an Insurance Agent: The conditions for disqualification shall be as stipulated under Section 42 (3) of the Act.

6. Code of Conduct.

1) Every agent shall adhere to the code of conduct specified below:-

- a) Every insurance agent shall, ---
 - i. Identify himself and the insurer of whom he is an insurance agent;
 - ii. Show the agency identity card to the prospect, and also disclose the agency appointment letter to the prospect on demand;
 - iii. Disseminate the requisite information in respect of insurance products offered for sale by his insurer and take into account the needs of the prospect while recommending a specific insurance plan;
 - iv. Where the Insurance agent represents more than one insurer offering same line of products, he should dispassionately advice the policyholder on the products of all Insurers whom he is representing and the product best suited to the specific needs of the prospect;
 - v. Disclose the scales of commission in respect of the insurance product offered for sale, if asked by the prospect;
 - vi. Indicate the premium to be charged by the insurer for the insurance product offered for sale;
 - vii. Explain to the prospect the nature of information required in the proposal form by the insurer, and also the importance of disclosure of material information in the purchase of an insurance contract;
 - viii. Bring to the notice of the insurer every fact about the prospect relevant to insurance underwriting, including any adverse habits or income inconsistency of the prospect, within the knowledge of the agent, in the form of a report called "Insurance Agent's Confidential Report" along with every proposal submitted to the insurer wherever applicable, and any material fact that may adversely affect the underwriting decision of the insurer as regards acceptance of the proposal, by making all reasonable enquiries about the prospect;
 - ix. Obtain the requisite documents at the time of filing the proposal form with the insurer; and other documents subsequently asked for by the insurer for completion of the proposal;
 - x. Advise every prospect to effect nomination under the policy
 - xi. Inform promptly the prospect about the acceptance or rejection of the proposal by the insurer;

- xii. Render necessary assistance and advice to every policyholder introduced through him/her on all policy servicing matters including assignment of policy, change of address or exercise of options under the policy or any other policy service, wherever necessary;
 - xiii. Render necessary assistance to the policyholders or claimants or beneficiaries in complying with the requirements for settlement of claims by the insurer;
- 2) **No insurance agent shall, ----**
- a. Solicit or procure insurance business without being appointed to act as such by the insurer
 - b. Induce the prospect to omit any material information in the proposal form;
 - c. Induce the prospect to submit wrong information in the proposal form or documents submitted to the insurer for acceptance of the proposal;
 - d. Resort to multilevel marketing for soliciting and procuring insurance policies and/or induct any prospect/policyholder into a multilevel level marketing scheme.
 - e. Behave in a discourteous manner with the prospect;
 - f. Interfere with any proposal introduced by any other insurance agent;
 - g. Offer different rates, advantages, terms and conditions other than those offered by his insurer;
 - h. Demand or receive a share of proceeds from the beneficiary under an insurance contract;
 - i. Force a policyholder to terminate the existing policy and to effect a new policy from him within three years from the date of such termination of the earlier policy;
 - j. Apply for fresh agency appointment to act as an insurance agent, if his agency appointment was earlier cancelled by the designated official, and a period of five years has not elapsed from the date of such cancellation;
 - k. Become or remain a director of any insurer;
- 3) Every insurance agent shall, with a view to conserve the insurance business already procured through him, make every attempt to ensure remittance of the premiums by the policyholders within the stipulated time, by giving notice to the policyholder orally and in writing;
- 4) Any person who acts as an insurance agent in contravention of the provisions of the Insurance Act, 1938 and Regulations made there under shall be liable to a penalty which may extend to ten thousand rupees and any insurer or any person acting on behalf of an insurer, who appoints any person as an insurance agent not permitted to act as such or transact any insurance business in India through any such person shall be liable to penalty which may extend to one crore rupees.

- 5) The insurer shall be responsible for all acts and omissions of its agents including violation of code of conduct specified under these Regulations, and shall be liable to a penalty which may extend to one crore rupees.

7. Suspension of Appointment of an Agent:

- 1) The appointment of an agent may be cancelled or suspended after due notice and after giving him/her a reasonable opportunity of being heard if he/she:-
- a. Violates the provisions of the Insurance Act, 1938 (4 of 1938), Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) or rules or regulations, made there under as amended from time to time;
 - b. Attracts any of the disqualifications mentioned above.
 - c. Fails to comply with the code of conduct stipulated in Regulation 8 and directions issued by the Authority from time to time.
 - d. Violates terms of appointment.
 - e. Fails to furnish any information relating to his/her activities as an agent as required by the Insurer or the Authority;
 - f. Fails to comply with the directions issued by the Authority;
 - g. Furnishes wrong or false information; or conceals or fails to disclose material facts in the application submitted for appointment of Insurance Agent or during the period of its validity.
 - h. Does not submit periodical returns as required by the Insurer/Authority;
 - i. Does not co-operate with any inspection or enquiry conducted by the Authority;
 - j. Fails to resolve the complaints of the policyholders or fails to give a satisfactory reply to the Authority in this behalf;
 - k. Either directly or indirectly involves in embezzlement of premiums / cash collected from policyholders/prospects on behalf of insurer. However this proviso does not permit an agent to collect cash/premium without specific authorisation by the insurer.

8. Procedure for Cancellation of Agency:

On the issue of the final order for cancellation of agency of the insurance agent, he/she shall cease to act as an insurance agent from the date of the final order.

9. Effect of suspension/cancellation of Agency appointment.—

- 1) On and from the date of suspension or cancellation of the agency, the insurance Agent, shall cease to act as an insurance agent.
- a. The insurer shall recover the appointment letter and Identity card from the agent whose appointment has been cancelled under these Regulations within 7 days of issuance of final order effecting cancellation of appointment.
 - b. The insurer shall black list the agent and enter the details of the agent whose appointment is suspended/cancelled into the black

listed agents' database maintained by the Authority and the centralised list of Agents database maintained by the Authority, in online mode, immediately after issuance of the order effecting suspension/ cancellation.

- c. In case a suspension is revoked in respect of any agent on conclusion of disciplinary action by way of issuance of a speaking order by Designated Official, the details of such agent shall be removed from list of black listed Agents as soon as the Speaking Order revoking his/her suspension is issued.
- d. The insurer shall also inform other insurers, Life or General or Health Insurer or mono-line insurer with whom he/she is acting as an agent, of the action taken against the Insurance Agent for their records and necessary action.

10. Procedure to be followed in respect of resignation/surrender of appointment by an insurance agent:

- 1) In case an insurance agent appointed by an insurer wishes to surrender his agency with his/her insurer, he/she shall surrender his appointment letter and identity card to the designated official of the insurer with whom he/she is currently holding agency.
- 2) The Insurer shall issue the cessation certificate as detailed in Form I-C within a period of 15 days from the date of resignation or surrender of appointment.
- 3) An Insurance Agent who has surrendered his appointment may seek fresh appointment with other insurer. In such a case, the agent has to furnish to the new insurer all the details of his/her previous agency and produce Cessation Certificate issued by the previous insurer issued in Form I-C, along with his agency application form.
- 4) The insurer will consider the agency application as outlined above after a period of NINETY DAYS from the date of the issue of the cessation certificate by the previous insurer.

11. General conditions for appointment of Agents by the insurer:

- 1) The Insurer shall frame a 'Board Approved Policy' covering Agency Matters and file the same with the Authority before 31st March every year. The guidelines for the 'Board Approved Policy' to be framed by the Insurer
- 2) No individual shall act as an insurance agent for more than one life insurer, one general insurer, one health insurer and one each of mono-line insurers
- 3) Any individual, who acts as an insurance agent in contravention of the provisions of this Act, shall be liable to a penalty which may extend to ten thousand rupees.
- 4) Any insurer or any representative of the insurer acting on behalf of the insurer, who appoints an individual as an insurance agent not permitted to act as such or transact any insurance business in India shall be liable to penalty which may extend to one crore rupees.