

13

Regulation and client advice

Contents	Syllabus learning outcomes
Learning objectives	
Introduction	
Key terms	
A The role of the Government	13.2
B Key Indian and international insurance bodies	13.3
C Duties, powers and functions of the IRDA and other regulators	13.1
D IRDA (Licensing of Insurance Agents) Regulations 2000	13.1
Key points	
Question answers	
Self-test questions	

Learning objectives

After studying this chapter, you should be able to:

- describe the role played by the Indian Government in promoting the growth of the insurance industry;
- outline the role of various Indian and international insurance bodies in the insurance industry;
- explain the duties, powers and functions of the IRDA as the insurance regulator;
- describe the key features of the IRDA (Licensing of Insurance Agents) Regulations 2000.

Introduction

We have discussed the Insurance Regulatory and Development Authority (IRDA) already in the course of our studies, and in the previous chapter we were reminded about how it was established by the **Insurance Regulatory and Development Authority (IRDA) Act 1999**. We know that the IRDA is the insurance regulator in India and that it was formed with a mission to protect the interests of policyholders and to regulate, promote and ensure the orderly growth of the insurance industry. In this chapter we will study the duties, functions and powers conferred upon the IRDA to accomplish this mission. This chapter will also make you aware of the provisions of the **IRDA (Licensing of Insurance Agents) Regulations 2000**, which cover the issue and renewal of licences to insurance agents.

We will start by learning about the role played by the Indian Government and various other key bodies in the promotion and penetration of insurance in India.



Key terms

This chapter features explanations of the following terms and concepts:

Insurance Regulatory and Development Authority (IRDA)	Foreign direct investment (FDI)	Life Insurance Council (LI Council)	Institute of Actuaries of India (IAI)
Insurance Brokers Association of India (IBAI)	Insurance Institute of India (III)	Tariff Advisory Committee (TAC)	De-tariffication
IRDA (Licensing of Insurance Agents) Regulations 2000	Cancellation of licence	Practical training	Issue of licence
Code of conduct	Duplicate licence		

A The role of Government

As the ultimate source of law, the Government has a key role to play in the regulation of the insurance industry in India. It has powers to act to ensure that the industry is properly regulated and takes action from time to time to promote the spread of insurance throughout India.

A1 Power of the Central Government to supersede the IRDA

The IRDA Act 1999 gives the Central Government of India the power to supersede the IRDA by issuing a notification. The Government may exercise this power if it is of the opinion that the IRDA is unable to discharge its functions or duties (for reasons beyond the control of the IRDA), or that it has persistently defaulted on its duties and responsibilities, or where circumstances exist which render action necessary in the public interest.

A2 Relationship of the Central Government with the IRDA

The IRDA Act specifies the role that the Central Government has in relation to the IRDA. We can sum this up as follows:

- To issue grants to the IRDA after due appropriation made by Parliament by law, for the IRDA to use for the purpose of the Act.
- The annual statement of accounts of the IRDA must be audited and certified by the Comptroller and Auditor-General of India and then forwarded to the Central Government. These account statements will then be presented before each House of Parliament by the Central Government.
- The Central Government can issue directions to the IRDA on questions of policy, other than those relating to technical and administrative matters. The Central Government may give these directions in writing from time to time and the IRDA is bound by them.
- The IRDA should supply returns, statements and other particulars regarding any proposed or existing programme for the promotion and development of the insurance industry to the Central Government as required.
- The Central Government has the power to make rules for carrying out the provisions of the Act, and may do this by issuing a notification.

Figure 13.1: Relationship between the IRDA and Central Government

A3 Role of the Government in the growth of the industry

The Central Government introduces various provisions from time to time to promote the growth of the insurance industry. One of the major provisions that Central Government has made is to allow foreign investment in the insurance sector. This is known as foreign direct investment (FDI).

A3A Foreign direct investment (FDI)

Prior to 2000 the Life Insurance Corporation (LIC) had the exclusive privilege of transacting life insurance business in India.

Insurance is a very capital intensive business with long break-even periods and requires a great deal of expertise. When the Government wanted to open up the insurance industry to private participation, the prospective participants had neither the technical expertise nor the required capital for insurance business. Therefore, to facilitate the smooth opening up of the insurance market to private participation, and to ensure the industry's orderly growth, the Government allowed 26% foreign direct investment (FDI) in the insurance sector.

Be aware

Under prevailing FDI laws for insurance at the time of writing, domestic private companies are allowed to form joint ventures (JVs) with foreign partners, in which the foreign partner can hold a 26% stake.



Since the opening up of the insurance sector to private participation in 2000, the penetration of insurance has much improved in the country. Customers have benefitted greatly in terms of the availability of innovative and customised products which cater to their requirements and are offered at competitive premiums. In order to sustain this growth, the Government proposes to increase the FDI limit in the insurance sector to 49%. At the time of writing the Bill for this is pending approval in Parliament. Once this is approved, the foreign partners will be able to increase their ownership to 49% in the joint ventures with the private domestic players. You are encouraged to keep up to date with developments in this area.

Suggested activity

Make a list of any five private life insurance companies and from the internet or company product brochures find out about the shareholding pattern of these companies. Find out how much is owned by the domestic partner(s) and how much by the foreign partner.



A3B Income tax incentives

We have seen in earlier chapters how the Government offers various tax incentives to encourage individuals to invest in life insurance. This has helped the take-up and spread of life insurance in India.



Question 13.1

What can the Central Government do if it is of the opinion that the IRDA is failing to carry out its functions?

B Key Indian and international insurance bodies

In this section we will look at some of the key bodies that play a role in the Indian insurance industry.

B1 Insurance Regulatory and Development Authority (IRDA)

We saw in chapter 1 that in 1999 the Insurance Regulatory and Development Authority (IRDA) was constituted as an autonomous body to regulate and develop the insurance industry following the recommendations of the Malhotra Committee report. The key objectives of the IRDA include promoting competition, so as to enhance customer satisfaction through increased consumer choice and competitive premiums, while ensuring the financial security of the insurance market. The IRDA has the duty to regulate, promote and ensure the orderly growth of insurance and reinsurance business in India.



Be aware

The IRDA was incorporated as a statutory body in April 2000.

We will look at the duties, powers and functions of the IRDA later in this chapter.

B2 Life Insurance Council (LI Council)

The Life Insurance Council was constituted under section 64A of the **Insurance Act 1938**. It functions through the Executive Committee and several sub-committees, and includes all life insurance companies in India. It develops and coordinates all discussions on behalf of the industry with the Government, the IRDA and the public. In short, it is the face of the life insurance industry.

The objective of the Life Insurance Council is to play a significant and complementary role in transforming India's life insurance industry into a vibrant, trustworthy and profitable service that helps people in their journey to prosperity.

The functions of the Life Insurance Council are as follows:

- Maintaining high standards of ethics and governance.
- Creating a positive image of the industry and enhancing consumer confidence.
- Promoting awareness of the role and benefits of life insurance.
- Organising structured and proactive discussions with the Government, lawmakers and regulators.
- Conducting research in life insurance and contributing to the development of the sector.
- Acting as a forum of interaction with other organisations within the financial services sector.
- Playing a leading role in insurance education, training and conferences.
- Providing help and guidance to members when necessary.
- To be an active link between the Indian life insurance industry and the global markets.

B3 General Insurance Council (GI Council)

The General Insurance Council represents the collective interests of the general (non-life) insurance companies in India. The Council speaks out on issues of common interest, participates in discussions related to policy formation, and acts as an advocate for high standards of customer service in the insurance industry.

B4 Insurance Brokers Association of India (IBAI)

The Insurance Brokers Association of India (IBAI) is the IRDA recognised apex body for all licensed insurance brokers in India. Insurance brokers have been introduced into the Indian market by the IRDA as professionals who represent and service the interests of insurance buyers. The insurance broker represents the insurance buyer and **not** the insurance company, although the broker is remunerated by the insurance company.

Be aware

There is no additional cost to the policyholder for placing business through an insurance broker.

**B5 Institute of Actuaries of India (IAI)**

The Institute of Actuaries of India (IAI) (formally the Actuarial Society of India – ASI) was formed in 1944 and was registered as a member of the International Actuarial Association in 1979.

Be aware

An actuary is an expert who applies mathematical and statistical methods for assessing the risk associated with certain events in insurance. For example, in chapter 4 we saw how actuaries prepared the mortality tables used by life insurance companies. An actuary should be a fellow of the Institute of Actuaries of India (IAI).

**The IAI was started with the objectives of:**

- advancing the actuarial profession in India;
- providing opportunities for interaction among members of the profession;
- facilitating research and arranging lectures on relevant subjects; and
- providing facilities and guidance to those studying for the actuarial exams.

B6 Tariff Advisory Committee (TAC)

The Tariff Advisory Committee (TAC) was established by section 64U of the Insurance Act 1938 to control and regulate the rates, advantages, terms and conditions offered by insurers in respect of general insurance business. Consequently, in the past the pricing of many insurance products was based on rates prescribed by the TAC. The TAC has been designated by the IRDA as the data repository for the non-life insurance industry.

The IRDA is in the process of implementing, in a phased manner, the de-tariffication of rates; this has been completed for some classes of non-life insurance but not yet for others.

Be aware

De-tariffication is the process of freeing the pricing of insurance so that insurers can price their products on the basis of their risk assessment and as driven by the market, rather than having a price imposed upon them.



While the pricing of insurance products is no longer dictated by the TAC, the standard policy wordings framed by the TAC are still being used by insurers.

B7 Insurance Institute of India (III)

The Insurance Institute of India (III) was formed in 1955 as the Federation of Insurance Institutes, becoming the III in 1987. Its purpose is to promote insurance education and training in India, and it is closely associated with all the segments of the insurance industry, including the IRDA and both public and private sector insurance companies.

The institute conducts examinations at various levels and works with other international insurance bodies in Canada, the USA and the UK, including the Chartered Insurance Institute (see section B9).

B8 National Insurance Academy (NIA), Pune

The NIA was set up in 1980 by the Government with support from the LI Council, GI Council and the four PSU general insurers. The main objective of NIA, Pune is to design, implement and operate an insurance training architecture that will engage the participating executives, faculty and staff in assisted learning, research, management and communications. It is an apex institution for research, training, education, consultancy, publication and leadership development in insurance and risk management. The NIA has produced numerous competent insurance executive practitioners through cognitive development programmes.

B9 Chartered Insurance Institute (CII)

The Chartered Insurance Institute (CII) was formed in the UK by Royal Charter in 1912 and, with over 95,000 members in more than 150 countries and is the largest insurance and financial services professional body in the world. The CII is committed to the adoption of consistent professional global standards and works with local regulators, educational partners and industry organisations to improve the professionalism, skills and behaviour of insurance and financial service staff and agents working in their local markets.

B10 Institute of Insurance and Risk Management (IIRM), Hyderabad

The Institute of Insurance and Risk Management (IIRM) is an international education and research organisation. The Institute was set up jointly by the IRDA and the State Government of Andhra Pradesh in 2002, as per the provisions of section 14(f) of the IRDA Act 1999 for the promotion of International Post Graduate Diploma Courses in insurance and risk management (regular and distance learning courses).

The IIRM aims to serve the learning and development needs of emerging markets in the context of their contemporary challenges in the insurance sector.



Question 13.2

What are the functions of the Life Insurance Council?

C Duties, powers and functions of the IRDA and other regulators

C1 IRDA

The duties, powers and functions of the IRDA are laid down by section 14 of the IRDA Act 1999. The IRDA Act gives the IRDA the power to:

a)	issue to applicants (companies) a certificate of registration and renew, modify, withdraw, suspend or cancel such registration;
b)	protect the interests of policyholders in matters concerning the assigning of the policy, nomination by policyholders, insurable interest, settlement of insurance claims, the surrender value of the policy and other terms and conditions of contracts of insurance;
c)	specify the requisite qualifications, code of conduct and practical training for intermediaries and agents;
d)	specify a code of conduct for surveyors and loss assessors;
e)	promote efficiency in the conduct of insurance business;
f)	promote and regulate professional organisations connected with the insurance and reinsurance business;
g)	specify the percentage of premium income to come from insurance companies to finance schemes for promoting and regulating the professional organisations referred to in clause (f);
h)	levy fees and other charges for carrying out the purposes of this act;
i)	call for information from, undertake the inspection of, conduct enquiries in, investigate and audit insurance companies, intermediaries and other organisations connected with the insurance business;
j)	control and regulate the rates, advantages, terms and conditions that may be offered by insurers in respect of general insurance business that is not controlled and regulated by the Tariff Advisory Committee (TAC) under section 64U of the Insurance Act 1938 (see section B6);
k)	specify the form and manner in which books of accounts are to be maintained and the statement of accounts are to be rendered by insurance companies and intermediaries;
l)	regulate the investment of funds by insurance companies;
m)	regulate the maintenance of the margin of solvency the law requires of each insurance company (note: the margin of solvency is the amount by which an insurance company's assets must exceed its liabilities);
n)	adjudicate in disputes between insurance companies and intermediaries;

o)	supervise the functioning of the Tariff Advisory Committee (TAC) (see section B6);
p)	specify the percentage of life insurance business and general insurance business to be undertaken by the insurance company in the rural or social sector; and
q)	exercise such other powers as may be prescribed.

C2 Reserve Bank of India (RBI)

The Reserve Bank of India is the Central Bank of India and was set up on 1 April 1935 in accordance with the provisions of the Reserve Bank of India Act 1934. The RBI is the regulator, supervisor and monetary authority of the financial system in India. It provides guidelines for banking operations within which the country's banking and financial systems operate. The RBI formulates, implements and monitors the monetary policy of the country and ensures that price stability is maintained.

C3 Securities and Exchange Board of India (SEBI)

The SEBI was established on 12 April 1992 in accordance with the provision of Securities and Exchange Board of India Act 1992. The SEBI is the regulator for the securities market in India and protects the interests of all investors in the securities market. It is also responsible for promoting the development of the securities market through appropriate measures as required from time to time.

Question 13.3

What are the key objectives of the IRDA?



D IRDA (Licensing of Insurance Agents) Regulations 2000

In July 2000 the IRDA issued the Insurance Regulatory and Development Authority (Licensing of Insurance Agents) Regulations. This is a key piece of legislation for you to know about as it relates to the issue and renewal of licences for insurance agents.

D1 Becoming an agent

There are a number of steps that you as an individual need to take, and a number of criteria that you will need to fulfil, if you wish to become a life insurance agent.

Figure 13.2



D1A Application

Firstly, a person who wishes to obtain a licence to act as an insurance agent must make an application, in the required format, to a designated person as specified in Regulation 3. The application must be accompanied by the fee of Rs. 250, payable to the authority as specified in Regulation 7.

D1B Qualification

The applicant must possess the necessary qualification, as specified under Regulation 4, as follows.

An applicant living in a place that has a population of 5,000 or more as per the last census:	An applicant living anywhere else:
<ul style="list-style-type: none"> • a minimum 12th standard pass; or • an equivalent examination provided by any recognised board or institution. 	<ul style="list-style-type: none"> • a minimum 10th standard pass; or • an equivalent examination provided by any recognised board or institution.

D1C Practical training

The applicant needs to receive practical training, as specified under Regulation 5. When seeking a licence for the first time, the applicant needs to have completed at least 50 hours (75 hours in case of a composite agency) of practical training in the life insurance business by an approved institution. However, the requirement for practical training is relaxed somewhat where the applicant has additional educational qualifications (as specified under sub-regulation (1)).

D1D Examination

An applicant also needs to pass the pre-recruitment examination in life insurance business as specified under Regulation 6. The examination may be conducted by the Insurance Institute of India (III) or any other approved examination body.

D1E Issue of licence

The designated person may grant the licence on being satisfied that the applicant:

- is in compliance with Regulation 4 (is properly qualified);
- is in compliance with Regulation 5 (has had practical training);
- is in compliance with Regulation 6 (has passed the necessary examination);
- has supplied an application, complete in all respects;
- has the knowledge necessary to be able to seek and gain insurance business; and
- is capable of providing the necessary service to policyholders.

D1F Renewal of licence

Before seeking a renewal of their licence to act as an insurance agent, the applicant needs to have completed at least 25 hours of practical training in life insurance business from an approved institution as specified in Regulation 5(3).

D1G Cancellation of licence

The designated person may cancel the licence of an insurance agent if the agent suffers from any of the disqualifications mentioned in sub-section (4) of section 42 of the Act.

The disqualifications mentioned in this sub-section that are applicable to an individual agent are as follows:

- The individual is a minor.
- The individual is found to be of unsound mind by a court of competent jurisdiction.
- The individual is found guilty of criminal misappropriation, breach of trust, cheating, forgery, or of abetting or attempting to commit such an offence by a court of competent jurisdiction.
 - However, if at least five years have passed since the completion of the sentence imposed for such an offence, ordinarily the conviction ceases to operate as a disqualification.
- The individual is found guilty of, or is found to have knowingly participated in any fraud, dishonesty or misrepresentation against an insurer or an insured.
- The individual does not possess the necessary qualifications or has not undergone the necessary training for a period not exceeding twelve months as specified by the Regulations.
- The individual has violated the Code of Conduct (see section D2).



Question 13.4

How many hours of practical training does a new life insurance agent need to undergo?

D1H Issue of duplicate licence

The authority may issue a duplicate licence to replace a licence lost, destroyed, or mutilated on payment of a fee of Rs. 50.

D1I Operating without a licence

An individual who acts as an insurance agent without holding a licence will be fined up to Rs. 500.

D2 Agent Code of Conduct

Along with the licence regulations, the Regulator has also laid down a code of conduct that is to be followed by every insurance agent. We will discuss the Code of Conduct in Chapter 15.

Question 13.5

What steps do you need to take to become an insurance agent?





Key points

The main ideas covered by this chapter can be summarised as follows:

The role of the Government

- The IRDA Act 1999 gives the Central Government of India the power to supersede the IRDA by issuing a notification.
- The Act gives power to the Central Government to issue directions, in writing from time to time, to the IRDA on questions of policy, other than those relating to technical and administrative matters.
- Under prevailing laws the Government allows 26% FDI in the insurance sector.
- The Government offers various tax incentives to encourage people to invest in insurance.

Key Indian bodies

- The Life Insurance Council (LI Council) develops and coordinates all discussions between the Government, the IRDA and the public. It is the face of the life insurance industry.
- The Insurance Brokers Association of India (IBAI) is the IRDA recognised apex body for all licensed insurance brokers in India.
- The Institute of Actuaries of India (IAI) aims to advance the actuarial profession in India.
- The Tariff Advisory Committee (TAC) was established to control and regulate the rates, advantages, terms and conditions that may be offered by insurers in respect of general insurance business.
- The Indian Insurance Institute (III) was established to promote insurance education and training in India.
- The Chartered Insurance Institute (CII) works with local regulators, educational partners and industry organisations to improve the professionalism, skills and behaviour of insurance and financial service staff and agents working in their local markets.

Duties, powers and functions of the IRDA and other regulators

- The IRDA was constituted as an autonomous body to regulate and develop the insurance industry.
- Section 14 of the IRDA Act 1999, lays down the duties, powers, and functions of the IRDA.
- The IRDA has the duty to regulate, promote and ensure the orderly growth of insurance and reinsurance business.

IRDA (Licensing of Insurance Agents) Regulations 2000.

- In July 2000 the Authority issued the IRDA (Licensing of Insurance Agents) Regulations relating to the issue and renewal of licences for insurance agents.
- To become an agent the applicant needs to submit the duly filled application form and fee to a designated person. They need to be appropriately qualified, undergo the required training and pass the examination before the licence will be issued.