Unit 3: Fundamentals of Agency, Definition of Agent, Agent regulation, Insurance Intermediaries, Agents Compensation , IRDA

Insurance Intermediaries

Insurance intermediaries facilitate the placement and purchase of insurance, and provide services to insurance companies and consumers that complement the insurance placement process.

Traditionally, insurance intermediaries have been categorized as either insurance agents or insurance brokers. The distinction between the two relates to the manner in which they function in the marketplace.

Insurance Agents

Insurance agents are, in general, licensed to conduct business on behalf of insurance companies. Agents represent the insurer in the insurance process and usually operate under the terms of an agency agreement with the insurer. The insurer-agent relationship can take a number of different forms.

In some markets, agents are “independent” and work with more than one insurance company (usually a small number of companies); in others, agents operate exclusively – either representing a single insurance company in one geographic area or selling a single line of business for each of several companies. Agents can operate in many different forms – independent, exclusive, insurer-employed and self-employed.

Insurance Brokers

Insurance brokers typically work for the policyholder in the insurance process and act independently in relation to insurers. Brokers assist clients in the choice of their insurance by presenting them with alternatives in terms of insurers and products. Acting as “agent” for the buyer, brokers usually work with multiple companies to place coverage for their clients. Brokers obtain quotes from various insurers and guide clients in determining the adequate policy from a range of products.

In some markets, there are distinctions among brokers depending upon the types of insurance they are authorized (licensed) to intermediate – all lines of insurance, property and casualty or life/health coverage. While most, if not all, brokers are active in commercial lines, some also intermediate personal lines policies. There are also distinctions between “retail brokers,” who negotiate insurance contracts directly with consumers, and “wholesale brokers,” who negotiate insurance contracts with retail brokers and agents, but not directly with consumers.

Reinsurance brokers solicit, negotiate and sell reinsurance cessions and retrocessions on behalf of ceding insurers seeking coverage with reinsurers. Reinsurance brokers can also be involved in a reinsurer’s retrocession of parts of its risk.

As a technical matter, a broker’s role may change during an insurance transaction and over the course of an on-going relationship with a client. Many brokers sometimes act as an “agent” of the insurer and other times as a “broker” of the client when assisting a client with insuring its risk exposures through an insurance contract with a traditional carrier.

For example, the broker acts on behalf of the client when negotiating the contract of insurance and placing the policy. When the broker provides services that would otherwise be handled directly by the insurance company, such as premium payments and claims handling, the broker is essentially acting as agent for the company. This unique concept makes the insurance process more efficient for both the policyholder and the insurer.

As a practical matter, regardless of the legal role in which a broker is acting, the manner in which the broker approaches all such placements for their clients is as an intermediary

– working on behalf of their clients to facilitate the consummation of insurance contracts with carriers that have the ability and capacity to properly insure their risks.

Having said that, determining whether an intermediary is legally an agent or broker is not always clear-cut. An intermediary's status is determined by the totality of the facts regarding the specific transaction at issue. An intermediary might be called a "broker," but actually represent the insurance company in a particular transaction. In such situations, the broker is actually – and legally – considered the company's agent, not that of the customer. Although, such an activity-based approach is increasingly used around the world, the legal status of insurance intermediaries varies throughout the international insurance market. For purposes of this memorandum, included within the term "intermediary" are insurance agents, brokers, producers, advisors and consultants.

The Role of Insurance Intermediaries

As players with both broad knowledge of the insurance marketplace, including products, prices and providers, and an acute sense of the needs of insurance purchasers, intermediaries have a unique role – indeed many roles – to play in the insurance markets in particular and, more generally, in the functioning of national and international economies.

Intermediary activity benefits the overall economy at both the national and international levels: The role of insurance in the overall health of the economy is well-understood.

Without the protection from risk that insurance provides, commercial activities would slow, perhaps grinding to a halt, thus stunting or eliminating economic growth and the financial benefits to businesses and individuals that such growth provides.

The role of insurance intermediaries in the overall economy is, essentially, one of making insurance – and other risk management products – widely available, thereby increasing the positive effects of insurance generally – risk-taking, investment, provision of basic societal needs and economic growth.

There are several factors that intermediaries bring to the insurance marketplace that help to increase the availability of insurance generally:

Innovative marketing

Insurance intermediaries bring innovative marketing practices to the insurance marketplace. This deepens and broadens insurance markets by increasing consumers' awareness of the protections offered by insurance, their awareness of the multitude of insurance options, and their understanding as to how to purchase the insurance they need.

Dissemination of information to consumers

Intermediaries provide customers with the necessary information required to make educated purchases/ informed decisions. Intermediaries can explain what a consumer needs, and what the options are in terms of insurers, policies and prices. Faced with a knowledgeable client base that has multiple choices, insurers will offer policies that fit their customers' needs at competitive prices.

Dissemination of information to the marketplace

Intermediaries gather and evaluate information regarding placements, premiums and claims experience. When such knowledge is combined with an intermediary's understanding of the needs of its clients, the intermediary is well-positioned to encourage and assist in the development of new and innovative insurance products and to create markets where none have existed. In addition, dissemination of knowledge and expansion of markets within a country and internationally can help to attract more direct investment for the insurance sector and related industries.

Sound competition

Increased consumer knowledge ultimately helps increase the demand for insurance and improve insurance take-up rates. Increased utilization of insurance allows producers of goods and services to make the most of their risk management budgets and take advantage of a more competitive financial climate, boosting economic growth.

Spread insurers' risks

Quality of business is important to all insurers for a number of reasons including profitability, regulatory compliance, and, ultimately, financial survival. Insurance companies need to make sure the risks they cover are insurable – and spread these risks appropriately – so they are not susceptible to catastrophic losses. Intermediaries help insurers in the difficult task of spreading the risks in their portfolio. Intermediaries work with multiple insurers, a variety of clients, and, in many cases, in a broad geographical spread. They help carriers spread the risks in their portfolios according to industry, geography, volume, line of insurance and other factors. This helps insurers from becoming over-exposed in a particular region or a particular type of risk, thus freeing precious resources for use elsewhere.

Reducing costs

By helping to reduce costs for insurers, broker services also reduce the insurance costs of all undertakings in a country or economy. Because insurance is an essential expense for all businesses, a reduction in prices can have a large impact on the general economy, improving the overall competitive position of the particular market.

Of course, the insurance cycle of "hard" and "soft" markets can have a significant impact on the benefits – both good and bad – of increased availability. Generally, however, increased availability benefits the consumer by leading to product competition, price competition, and improved services. By reducing insurance costs across markets, intermediaries make an important contribution to improving the economic conditions in a country.

Till 1999 the insurance sector was controlled by Controller of Insurance as per the provisions of Insurance Act 1938 but after formation of the IRDA it is felt by the Authority that the most of the provisions of this Act were irrelevant in the present scenario of the country. Therefore the Authority issued various regulations, as deemed fit, to develop the insurance sector in the country.

Therefore, we shall be discussing the following important regulations in these following chapters:–

Procedure of:–

- Granting of license to companies to start insurance business.
- Approval of insurance product.
- Appointment of different insurance intermediary.
- Investing the insurance premium.
- Accounting & audit.
- Miscellaneous important provisions of Insurance Act.

These regulations were not issued in the above sequence but we have followed this logic - firstly the insurance company will come into existence, secondly the insurance product will be design and developed, thirdly the manpower is required to sell the product, fourthly the premium received by the insurance companies is to be invested, fifthly the accounts are to be maintained and lastly, various provisions.

OBJECTIVES

At the end of this lesson you will be able to know:-

- The procedure of getting the license of insurance from IRDA.
- The procedure to get approval of insurance product from IRDA.
- The procedure to appoint insurance inter-mediatory.

Before we start explaining the first regulations, we shall discuss various terms defined in Insurance Act 1938

DEFINITIONS

1 "Actuary" means an actuary possessing such qualifications as may be prescribed;

2 "Authority" means the Insurance Regulatory & Development Authority established under the Insurance Regulatory and Development Authority Act, 1999.

3 "Policy-holder" includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any conditions;

4 "Approved Securities" means –

i. Government securities and other securities charged on the revenue of the Central Government or of the Government of a State or guaranteed fully as regards principal and interest by the Central Government or the Government of any State;

ii. Debentures or other securities for money issued under the authority of any Central Act or Act of a State Legislature by or on behalf of a port trust or municipal corporation or city improvement trust in any presidency-town;

iii. Shares of a corporation established by law and guaranteed fully by the Central Government or the Government of a State as to the repayment of the principal and the payment of dividend;

iv. Securities issued or guaranteed fully as regards principal and interest by the Government of any Part B State and specified as approved securities for the purposes of this Act by the Central Government by notification in the Official Gazette;

5. "Auditor" means a person qualified under the Chartered Accountants Act, 1949 to act as an auditor of companies;

6. "Certified" in relation to any copy or translation of a document required to be furnished by or on behalf of an insurer certified by a principal officer of such insurer to be a true copy or a correct translation, as the case may be;

7. "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction;

8. "Fire Insurance Business" means the business of effecting, otherwise than incidentally to some other class of insurance business, contracts of insurance against loss by or incidental to fire or other occurrence customarily included among the risks insured against in fire insurance policies.

9. "General Insurance Business" means fire, marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them.

10. "Government Security" means a Government security as defined in the Public Debt Act,

11. "Indian Insurance Company" means any insurer being a company:—

(a) which is formed and registered under the Companies Act, 1956 (1 of 1956);

(b) in which the aggregate holdings of equity shares by a foreign company, either by itself or through its subsidiary companies or its nominees, do not exceed twenty-six per cent paid-up equity capital of such Indian insurance company;

(c) Whose sole purpose is to carry on life insurance business or general Insurance business or re- insurance business.

5. "Insurance Agent" means an Insurance agent duly licensed and who receives or agrees to receive payment by way of commission or other remuneration in Consideration of his soliciting or procuring Insurance business including business Relating to the continuance, renewal or revival of policies of Insurance;

6. "Life Insurance Business" means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except, death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for a term dependent on human life and shall be deemed to include:—

(a) The granting of disability and double or triple indemnity accident benefits, if so provided in the contract of Insurance.

(b) The granting of annuities upon human life.

(c) The granting of superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such persons.

7. "Marine Insurance Business" means the business of effecting contracts of insurance upon vessels of any description, including cargoes, freights and other interests which may be legally insured, in or in relation to such vessels, cargoes and freights, goods, wares, merchandise and property of whatever description insured for any transit by land or water, or both, and whether or not including warehouse risks or similar risks in addition or as incidental to such transit, and includes any other risks customarily included among the risks insured against in marine Insurance policies;

8. "Miscellaneous Insurance Business" means the business of effecting contracts of insurance which is not principally or wholly of any kind or kinds included in fire, marine insurance business.

PROCEDURE OF GRANTING OF LICENSE TO COMPANIES TO START INSURANCE BUSINESS

No person can carry on Insurance business unless & until he has obtained a certificate from the Authority for a particular class of Insurance business. For e.g. A person can start life Insurance, marine Insurance, fire Insurance, health Insurance etc. But a life Insurance business cannot be combined with other type of Insurance business. Those who are already in Insurance Business like General Insurance Corp., National Insurance, New India Assurance, Oriental Insurance & United India Insurance have to obtain a fresh certificate within 3 months from the date of commencement of this Act or before such date as fixed by the Govt.

Even those insurers for whom the registration was not necessary before the commencement of this Act will require the registration certificate.

To get the registration certificate the following procedure is to be followed:

Every application in the prescribed form (IRDA/R1) for registration shall be made with the following enclosures:—

1. A certified copy of Memorandum and Articles of association if the applicant is a company.
2. The name, address & the occupation of the directors of the company.
3. A statement of the class of insurance business proposed to be carried on.
4. A statement indicating the sources that will contribute the share capital.

On receiving the above documents IRDA will verify the contents and may ask for additional information if any. The Authority may ask the Principal Officer to appear to their office for any information or clarification.

If the Authority is satisfied with the information and documents provide with the application form (IRDA/R1), the Authority may ask for an additional application in the prescribed form (IRDA/ R2) which should be accompanied with then following documents:—

1. Every Insurance shall deposit in cash or in approved securities or partially in cash or partially in approved securities as per

details given below: -

(i) In case of Life Insurance business, a sum equivalent to 1% of his total gross premium written in India in any financial year commencing after the 31st day of March 2000 not exceeding rupees ten crores (Rs.10 crores).

(ii) In the case of General Insurance business a sum equivalent to 3% of his total gross premium written in India in any financial year commencing after 31/3/ 2000 not exceeding rupees ten crores (Rs.10 crores).

(iii) In case of reinsurance business, a sum of rupees twenty crores (Rs.20 crores).

(iv) If the business is to be done in marine Insurance only & relates exclusively to country craft or its cargo or both the amount to be deposited Rs.1, 00, 000/- (Rs.1 lakh) only.

(v) A certificate from the Reserve Bank of India showing the amount deposited.

2. A declaration verified by an affidavit from the "Principal Officer" that the equity capital of the company has been complied with.

   The paid up equity excluding preliminary expenses and registration charges should be Rs.100 crores for life or General Insurance business and Rs.200 crores for the Reinsurance business.

   If any insurer is carrying on business of insurance already then within 6 months from the commencement of the Act the paid up capital should be as per prescribed limits in the Act.

3. A certified copy of the published prospects and of the standard policy forms of the insurer.

4. Statement of assured rate, advantages, terms & conditions to be offered in connection with Insurance policies.

5. In the case of the business the certificate from the actuary that such rates are workable & sound.

6. In the case of marine accident & miscellaneous Insurance

   business other than workmen's compensation & motor car Insurance the available forms, prospects and statements to be submitted.

7. The receipt of deposit of Rs. 50,000/- for each class of business.

8. If there is any foreign partner, a certified copy of Memorandum of understanding between Indian promoter and Foreign promoter including details of support comfort letters

exchanged between the parties.

9. Any other document as desired by the Authority after scrutiny the application.

2A) If on the receipt of an application for registration and the authority is satisfied that

a) The financial condition & the general character of management of the applicant are sound.

b) The volume of business likely to be available to & the capital structure & earning prospects of the applicant will be adequate.

c) The interest of the general public will be served if the certificate of registration is granted to the applicant then the certificate of registration is granted.

Refusal of Registration

- If the Authority refuses the registration the reason of such decision will be intimated to the applicant.
- The Applicant whose application has been rejected can file an appeal before the Central Govt. within 30 days from the date on which a copy of the decision is received.
- The decision of the Govt. shall be final and shall not be questioned before any court.

Cancellation of Registration

The Authority has the right to cancel the certificate of registration either wholly or in so far as it relates to a particular class of Insurance business if the any of the conditions specified for registration is not complied with.

Renewal of Registration

Every year the registration is to be renewed and the application is to be made to the Authority before 31st Dec. of the preceding years with the prescribed fees i.e.,

(i) 1/4th of 1% of premium received or Rs. 5 crores whichever is less.

(ii) It should not be less than Rs. 50,000 in each class of business.

(iii) For reinsurer companies 1/4th of 1% will be considered of total premium in respect of facultative reinsurance accepted in India.

(iv) Fees to be paid in Reserve Bank of India.

REGULATION FOR PRODUCT APPROVAL

No Insurance Company can sell any insurance product unless & until the product is approved by the Authority. The procedure to get the approval from the Authority is as follows:—

Life Insurance Products

The life Insurance products are classified as:—

1) Linked Business.
2) Non-Linked Business.
3) Non-life/General Insurance Business.

An insurer who wishes to introduce a new product or to make changes to any existing product or to withdraw an existing product shall submit the application in the prescribed proforma to IRDA with full details and reasons to make changes in any existing product or to withdraw an existing product.

The insurer shall not commence selling the product in respect of which additional information has been sought by the Authority until the Authority confirms in writing. If no such information is sought by the Authority, the insurer can commence selling the product in the market.

Period of Approval

Within 15 days (earlier 30 days) of the receipt of the application the Authority may seek additional information with regard to the product, and the insurer shall not commence selling the product in respect of which additional information has been sought by the Authority, until the Authority confirms in writing having noted such information. If no such information is sought by the Authority, the insurer can commence selling the product in the market, as set out in the application after the expiry of the said 15 days (earlier 30 days) period. This procedure is known as “File & use.”

Issue of License:

IRDA or an officer authorized by it in this behalf will issue a license. These Regulations specify:

– Authorizes designated persons, being officers of Insurers to issue such license for three years
– The license may be to act as an

- Agent for the “Life Insurer” or
- Agent for the “General Insurer” or
- Agent as a “Composite Insurance Agent” means Agent for life insurance as well as general insurance.

– Fee for the license (Rs. 250/-)

– The manner of making an application etc.