Position Paper

Insurance Europe position paper on market access issues in India

Our reference:	IAR-14-052	Date:	24 March 2014
Referring to:			
Related documents:			
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Pages:	3	Transparency Register ID no.:	33213703459-54

Market Access Issues on India

Insurance Europe, the European insurance and reinsurance association, would like to highlight the following key market access concerns experienced by European insurers and reinsurers when trading in India.

- **Equity limit in insurance** - The Indian Insurance Amendments Bill (the Bill) contains provisions raising the Foreign Direct Investment (FDI) cap in insurance from 26% to 49%. However, the passage of this Bill in the Indian Parliament has been delayed since 2004, when it was drafted.

  The rise of the FDI cap continues to be a major priority for the European insurance industry and therefore we welcome the European Commission's continued support in trying to ensure the Bill is introduced before the Indian legislative elections in May. In doing so, it is key that the FDI cap increase is not replaced by foreign institutional investment (FIIs). This would penalise existing foreign invested companies as well as their Indian partners by forcing them to accept a new third party as a major stakeholder.

- **Prohibition of foreign reinsurance branches** – The Indian Insurance Amendments Bill (the Bill) would also allow the opening of foreign reinsurance branches. The fact that the Bill has not yet been adopted hinders the operation of the reinsurance market by limiting the participation of foreign reinsurers which in turn limits the diversification and spreading of risks.

- **Restrictions on reinsurance placements** - In February 2013, the IRDA released its final "life insurance reinsurance regulations, 2013", which mandated insurers and reinsurers to draft a "*Reinsurance programme*" to, among other goals, maximise retention within the country.

  In addition, the regulations mandate insurers to reinsure locally a certain minimum level per policy, which will be notified by the IRDA's Advisory Committee individually. It should be noted that, there is currently only one purely "*Indian reinsurer*", the state-owned General Insurance Corporation (GIC Re).

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Insurance Europe believes that the IRDA should return to its previous principles-based regulation on retention limits, which conformed with the supervisory approach adopted internationally. Insurers should be able to determine their retention limits based on an overall risk assessment of their operations, taking into account factors such as their risk appetite, the distribution channel through which a particular risk is sold, and their underwriting and claims experience with specific classes of business.

- **Registration requirements for cross-border reinsurers** – In January 2012 the Indian insurance regulator (IRDA) introduced new registration requirements for cross border reinsurers as well as for insurers and reinsurers intermediates, effective from April 2012. However, while it was initially understood that facultative reinsurance was exempt from the registration requirements, a new IRDA circular published in 2013 required reinsurers to report also facultative arrangements.

  Insurance Europe views the reporting process as atypical and unnecessarily complex. We would, therefore, like to urge the IRDA to reconsider the registration requirements and allow border reinsurers from well regulated jurisdictions to carry out reinsurance business freely on a cross-border basis.

- **Bancassurance restrictions -** The announced bancassurance guidelines could force all banks to operate as brokers through requiring them to offer products on behalf of multiple providers. In addition, banks would only be allowed to place a maximum of 25% of their bancassurance business with one insurance company. This would be a major setback for insurance companies which have banks as a partner and have invested significant resources in securing bancassurance distribution channels.

  It also creates legal uncertainty through changing the regulatory basis on which bank and insurance companies had originally agreed to invest, thus limiting their ability to conduct business freely, compromising contractual relationships, undermining confidence in the system and at the same time deterring further foreign investment.

- **Insufficient stability in regulation -** The IRDA is frequently introducing new regulations which in many cases cause conflicts with existing contractual relationships without adequate consultation or proper acknowledgment of the industry’s concerns. This affects legal certainty and puts a significant strain on foreign (re)insurers operating in India; and a disproportionate burden on the smaller companies, many of which are at least in part foreign owned.

  The European insurance industry would like to have the opportunity to participate in public consultations before any rule is issued. Through proper consultation and impact studies being conducted it will ensure that regulatory change best fits the needs of the Indian economy and consumers. It will also help build confidence in the Indian regulatory environment thus supporting and encouraging future investment.

- **Proposed Insurance Clearing House (ICH) -** On 20 February, the IRDA shared with local industry participants a proposal to establish an Insurance Clearing House (ICL) to, among other goals “negotiate; transact coinsurance/reinsurance placements, accounting, settlements and reconciliation of balances”. The proposal stipulates a mandatory membership in the ICH for transacting coinsurance and reinsurance business in India. Concerning the reasons to propose an ICH, the IRDA states that “the inability of the parties to the transactions to agree appears to be the primary reason for the growing inter-company balances. It is also noticed that lack of cooperation between the companies and inadequate documentation is posing a great problem”.

  Insurance Europe believes that setting an ICH would not help to solve the above mentioned issues, which could be better tackled incrementally with more focused solutions; including policy changes as

well as technological solutions. Furthermore, an ICH could create new problems by adding more bureaucracy and complexity in integrating business processes and thus delays and additional costs for foreign (re)insurers.

In addition, Insurance Europe would question how this proposed ICH, which would be promoted by Indian insurers, would protect the data received and whether the incurring costs lead to appropriate benefits.