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IRDAI issues regulations on corporate governance for insurers

On March 20, 2024, Insurance Regulatory and Development Authority of India ("**IRDAI**") issued the IRDAI (Corporate Governance for Insurers) Regulations, 2024 ("**Regulations**") with a view to regulating the corporate governance practices of Indian insurers. The Regulations consolidate and update the corporate governance requirements issued under 'Guidelines for Corporate Governance for Insurers in India'.

The stated objectives of these Regulations are to provide a framework for insurers to: (a) adopt sound and prudent principles and practices in their governance structure, and (b) define the roles and responsibilities of the board of directors and management of insurers and establish stewardship principles to protect the interests of all stakeholders, particularly policyholders.

The Regulations cover various aspects of corporate governance, including the appointment of directors, key management persons ("**KMPs**"), and statutory auditors, the powers and role of the board of directors ("**Board**"), stewardship requirements, and other governance requirements such as disclosure and reporting to IRDAI, and ESG. Some key provisions of the Regulations are discussed below:

Applicability

The Regulations are applicable to all insurers except foreign companies engaged in re-insurance business through a branch established in India.

Board Composition

1. The Regulations state that every insurer will have a Board comprising of competent and qualified individuals as directors with qualifications and experience that are commensurate with the scale, nature, complexity of business and size of the insurer. The individuals comprising the Board should have financial and management expertise in various areas such as the line of business underwritten, actuarial and underwriting risks, finance, accounting, control functions, investment analysis and portfolio management, etc.

2. The chairperson of the Board will be appointed with the prior approval of the competent authority except in the case of public sector insurers.

3. In the event an independent director of the insurer resigns, the insurer must intimate IRDAI regarding such resignation, along with reasons, within 30 (thirty) days of such resignation.

Independence of the Board

The Regulations require insurers to ensure an optimum composition of independent directors and non-executive directors on the Board, subject to a minimum of 3 (three) independent directors. In the event that an insurer has foreign investment, Indian Insurance Companies (Foreign Investment) Rules, 2015 will apply. Accordingly, if an Indian insurance company has foreign investment exceeding 49%, at least 50% of the Board will consist of independent directors. However, under the said rules, if the chairperson of the insurer is an independent director, at least one-third of the Board will consist of independent directors. The Regulations further state that insurers will ensure the independence of the Board from management and promoters.

Committees

Insurers will ensure the constitution of below committees:

a) **Committees mandated by the Companies Act, 2013**: Insurers are required to constitute audit committee, nomination and remuneration committee, corporate social responsibility committee and any other committee as mandated by Companies Act, 2013;

b) **Risk management committee**: This committee will be responsible for implementing a risk management system to have strong risk management strategies including asset-liability management;

c) **Policyholder protection, grievance redressal and claims monitoring committee ("PPGR&CM Committee")**: This committee is required to establish suitable systems and processes for protecting the interests of policyholders, creating insurance awareness, monitoring the claims settlement processes and establishing efficient and effective grievance redressal mechanism. In the event an insurer is carrying out solely the business of re-insurance, the composition of PPGR&CM Committee is not mandatory for such insurer; and

d) **Investment Committee**: This committee is required to formulate and recommend an investment policy and the operational framework for the investment operations of the insurer.

e) **With Profits Committee***:* Every insurer transacting 'participating life insurance' business is required to constitute a 'with profits committee' with the objective of ensuring appropriate management of with profit business.

Related party transactions

The Regulations mandate that the Board will constitute a policy on related party transactions which will include the definition of transactions in the ordinary course of insurance business, method of determination of arm's length pricing, list of items requiring approvals under applicable laws and/or from audit committee of the insurer, Board, shareholders and any other matter relevant to the related party transactions. The policy on related party transactions will be reviewed annually by the Board.

Succession planning

The Board of the insurer is required to adopt a succession plan which *inter alia,* will provide for a process for identifying and nurturing individuals to take up director and KMP positions in the insurers. Such plan will be reviewed by the Board on an annual basis.

Key Management Persons

The Regulations refer to the IRDAI (Registration of Indian Insurance Companies) Regulations, 2022 ("**Registration Regulations**") for the definition of KMPs. According to the Registration Regulations, KMPs include members of the core management team of an insurer including all whole-time directors or managing directors or chief executive officer and the functional heads one level below the managing director or chief executive officer, including the chief financial officer, appointed actuary, chief investment officer, chief risk officer, chief compliance officer and the company secretary. All KMPs must be appointed on the recommendation of the Nomination and Remuneration Committee. Every insurer will appoint a managing director/chief executive officer or whole-time directors after the Board carries out due diligence to ensure that such individual is 'fit and proper'.

A chief compliance officer ("**CCO**") will be appointed as the designated compliance officer for a minimum period of not less than 3 (three) years. The duties of such appointed CCO will include apprising the Board and senior management on the applicable laws, ensuring compliance with the same and designing the compliance framework.

The IRDAI will be informed of any vacancy in the KMP positions, along with the reasons for the same. Such position will not remain vacant for more than 180 (one hundred and eighty) days continuously.

The Regulations also require insurers to ensure independence of control functions including compliance, risk, audit, actuarial and secretarial functions.

Remuneration of directors and KMPs

The Board of the insurer will formulate a remuneration policy for directors and KMPs. The Board must also ensure that the decision-making process in the remuneration policy identifies and manages conflicts of interest. Further, it must also be ensured that the members of the Board are not placed in positions of actual or perceived conflicts of interest with respect to remuneration decisions.

Auditors

Insurers will appoint a minimum of 2 (two) auditors appointed as joint statutory auditors with no conflict of interest in the appointment. Statutory auditors will be appointed by the Board with the audit committee's recommendation and subject to the approval of shareholders in the general meeting.

Stewardship

A stewardship policy will be formulated by the insurer with the approval of the Board to identify and define the stewardship responsibilities that an insurer wishes to undertake along with the process to fulfil the responsibilities to enhance the benefits to policyholders. Such policy will ensure that insurers are actively involved in general meetings of investee companies and engage with managements at a greater level to improve their governance.

Disclosing and reporting requirements

Compliance with the Regulations must be ensured by the CCO who will be the designated compliance officer for submitting returns, reports and applications for approvals to IRDAI, unless otherwise specified. An annual report will be submitted with details on status of compliance in the manner prescribed by the competent authority.

Environmental, Social and Governance

Insurers will put in place an Environmental, Social and Governance (ESG) framework which will be approved by the Board and reviewed annually. The Board must also establish a specific climate risk management framework to facilitate climate risk management.

Conclusion

The IRDAI's Corporate Governance for Insurers Regulations, 2024 marks the first instance where governance aspects under the existing guidelines are now formalized into regulations. By covering various aspects such as independence of the Board, its roles and responsibilities, management of insurers, ensuring compliance with governance and disclosure requirements and adoption of stewardship policies, the regulations have emphasized transparency, accountability and protection of interests of stakeholders. It may be pertinent to note that the implementation of these regulations needs to be a dynamic exercise, requiring insurers to undertake effective planning, resource allocation and collaboration with IRDAI.

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