Regulatory alert: IRDAI releases guidelines on repatriation of dividends by insurance intermediaries having majority by foreign investors

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Summary

The Insurance Regulatory and Development Authority of India (IRDAI) recently released **'Guidelines on repatriation of dividends by insurance intermediaries having majority by foreign investors'** (the guidelines). The guidelines lay down operational framework including quantum of dividend payable in addition to various other procedural matters like time period for disposal of application and powers of the Chairman to issue clarifications.

Background

The guidelines have been released pursuant to the IRDAI (Insurance Intermediaries) (Amendment) Regulations, 2019[1] which allowed 100% Foreign Direct Investment (FDI) in insurance intermediaries.

One of the conditions stipulated in the said regulations was that an insurance intermediary that has majority shareholding of foreign investors shall take prior permission of IRDAI for repatriating dividend. In connection with the same, guidelines have now been released by the IRDAI.

Key features of the guidelines

Applicability

The guidelines shall apply to repatriation of dividends by the following insurance intermediaries that has majority shareholding of foreign investors:

- Insurance brokers
- Insurance web aggregators
- Insurance marketing firms
- Corporate agents
- Insurance surveyors and loss assessors
- Third party administrators (health services)

Operational framework

An application for seeking permission for repatriation of dividends shall be made by an insurance intermediary in Form RD-1 to IRDAI. The IRDAI shall consider the following points while taking into account the request for permission:

- A net-worth of 1.5 times of the statutorily required minimum paid-up capital (as specified for the respective insurance intermediary) after proposed dividend pay-out.
- Aggregate payments (other than dividends) made to related parties not to exceed 10% of the total expenses of the insurance intermediary in the financial year.
- The proposed dividend is payable out of the current year's profit.

[1] Dated 30 October 2019

- No restrictions placed on the insurance intermediary for declaration of dividend.
- Compliance with the provisions of Insurance Act, 1938; IRDA Act, 1999; rules, regulations, guidelines, circulars, directions issued by the IRDAI.
- Any other point which the IRDAI considers relevant.

Quantum of dividend payable

- The dividend payout ratio shall not exceed 75%.
- Dividend payout ratio shall be calculated as a percentage of 'dividend payable in a year' (excluding dividend tax) to 'profit after tax during the year'[2]
- The financial statement of the respective financial year should be free from any qualification by the statutory auditors that has an adverse bearing on the profit of that year. In case of any such qualification, the net profit should be suitably adjusted while computing dividend payout ratio.

In addition, the IRDAI has also laid down certain procedural matters in terms of time period for disposal of application and powers of the Chairman to issue clarifications.

Our comments

Issuance of the guidelines by the IRDAI would provide desired clarity on the procedure to be followed by insurance intermediary having majority shareholding of foreign investors at the time of repatriation of dividends, and, also to understand the mindset of the regulator while granting such approval. Further, it would be critical to ensure that the conditions laid down by the IRDAI are met by the insurance intermediaries.

[2] For this purpose, the profit after tax shall be excluding extraordinary profits/income

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