BUDGET 2019-20
ANALYSIS & EXPECTATIONS – INSURANCE SECTOR

Some of the key announcements Finance Minister Nirmala Sitharaman made in the Union Budget on July 5, 2019 on insurance are:

- that in order to facilitate onshoring of international insurance transactions and to enable opening of branches by foreign reinsurers in the international financial services centre (**IFSC**) specifically, it is proposed to reduce the net owned fund requirement of such companies from INR 5000 crore to INR 1000 crore.
- that 100% foreign direct investment (**FDI**) will be permitted for the insurance intermediaries (*explained below*) in India.

General Analysis

- The Finance (No.2) Bill 2019 (**Finance Bill**), has proposed to amend the Insurance Act, 1938 (**Insurance Act**) to include a new sub-clause (3) to Section 6 (*Requirement as to Capital*) of the Insurance Act, restricting any foreign company established under an international financial service center from engaging in re-insurance business in India.
- The amendment has further relaxed the threshold for the aforesaid segment of foreign companies and upon the proposed amendment such foreign company is required to have net owned funds of not less than INR 1000 Crore in order to be registered as an insurer as defined under the Insurance Act.
- The amendment has been proposed to ease the offshoring of international insurance transactions by foreign reinsurers in the IFSC sectors.
- The cabinet approves establishment of a unified authority for regulating all financial services in IFSCs in India through International Financial Services Centers Authority Bill, 2019[1] to define a contemporary regulatory architecture for such world-class financial hubs. The bill referred to above provides for the establishment of an authority to develop and regulate the financial services market in the IFSC set up in Special Economic Zones in India.
- International financial service center is defined under the Special Economic Zone Act, 2005 (SEZ Act)[2] as the one which has been approved by the Central Government subject to fulfilment of requirements prescribed by the Central Government.
- The SEZ Act restricts Central Government to approve only one IFSC in one special economic zone[3].
- The proposed amendment shall have a retrospective effect and hence is proposed to be effective from the 1st of April 2019.
- Presently, FDI is allowed for up to 49% under automatic route in case of insurance company, insurance brokers, third party administrators, surveyors and loss assessors, and other Insurance Intermediaries appointed under Insurance Regulatory and Development Authority Act, 1999 (**IRDA Act**). The government has been considering 100 per cent FDI in insurance intermediaries for the past 2 (Two) years.
- While also exploring the opening of FDI in the insurance industry and aiming at increase flow of FDI within India, it has been proposed to permit 100% FDI for insurance intermediaries in the Union Budget of 2019. The Insurance Regulatory and Development Authority was also said to be in favor of 100% (Hundred Percent) FDI for insurance intermediaries.

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[1] http://pib.nic.in/newsite/PrintRelease.aspx?relid=188149
[2] Section 2(q) [International Financial Services Center] of the Special Economic Zone Act, 2005.
[3] Section 18(1) [Setting up of International Financial Services Centre] of the Special Economic Zone Act, 2005.

- Though the said proposal does not form a part of the Finance (No. 2) Bill, 2019 [Bill No 55 of 2019][4], it has been referred to in the Union Budget Speech[5] and has also been reflected in a press release dated 5th July 2019[6] by the Department of Industrial Policy and Promotion.
- The proposal made in relation to increase in FDI for Insurance Intermediaries does not make any clear reference to whether the foreign investment will be permissible under the approval route or the automatic route. Nonetheless, considering that the Government has been relaxing investment restrictions in sectors such as insurance where there is a strong presence of a sectoral regulator, it is likely that the relaxation of 100% FDI limit would be under the automatic route.
- Insurance intermediaries serve as a bridge between consumers and insurers. An Insurance Intermediary is defined under section 2(f) of the IRDA Act 1999 as individual agents, corporate agents including banks and brokers. Insurance brokers are licensed by the IRDA and governed by the Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002. Individual insurance agents and corporate agents are also licensed by the IRDA and governed by the Insurance Regulatory and Development Authority (licensing of Individual Insurance Agents) Regulations, 2000 and the Insurance Regulatory and Development Authority (Licensing of Corporate Agents) Regulations, 2002, respectively. These Regulations lay down the Code of Conduct for the respective intermediaries. Insurance Intermediary also includes Surveyors and Third-Party Administrators, but these intermediaries are not involved in procurement of business. Surveyors assess losses on behalf of the insurance companies. Third Party Administrators provide services related to health insurance for insurance companies. Reinsurance broker are defined under the Insurance Regulatory and Development Authority of India (Insurance Brokers) Regulations, 2017 as an insurance broker who for a remuneration or fee, arranges reinsurance for its client(s) with insurers and reinsurers located in India and abroad.

Road ahead:

- Reduction in Net Owned Fund requirement from INR 5,000 crore to INR 1,000 crore proposed will facilitate onshoring of international insurance transactions and enable opening of branches by foreign reinsurers in the IFSC.
- According to industry experts, hike in the FDI for Insurance Intermediaries shall lead to enhancement in the use of newer technologies. This will help in curbing the huge gap between the technology used by the insurers and the surveyors as proclaimed by Insurance Surveyors and Loss Assessors in India thereby bring in the latest technology and advanced digital platform used by surveyors worldwide.
- Through proposed increase in FDI, it is contemplated that high-quality global capital and expertise are expected to flow into the Indian insurance industry.
- FDI in this sector will attract significant investment in the sector, enable adoption of global best practices, enable companies to expand operations and lead to significant job creation both directly and indirectly.
- Increase in FDI in the core insurance sector, from 49% to 74%, could also be on the anvil. While an intent to do so was indicated in the Budget Speech, but no regulatory or policy change has been notified so far. Participants will have to wait for a clearer picture.

[4] https://www.indiabudget.gov.in/finance_bill.php
[5] https://www.indiabudget.gov.in/budgetspeech.php
[6] https://dipp.gov.in/sites/default/files/Press_Release_05072019.pdf