Reinsurance Advisory Board comments on Exposure Draft of Insurance Regulatory and Development Authority of India (Re-insurance) (First Amendment) Regulations, 2022

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Sr.	Wordings of the Regulation as per Exposure Draft	Page No. and Para No.	Comments	Rationale for Comments
5(2)A	A. Every Cedant shall secure maximum participation by 'Category 1' Reinsurers in order to maximise retention within Indian market while fulfilling the minimum necessary placement with the lead Reinsurer quoting the best terms. Every Cedant shall abide by the following provisions whilst seeking placement: a) Category 1: Indian Reinsurers, FRBs (including Lloyd's India) and IIOs; b) Category 2: CBRs with rating A+ & above from Standard & Poor's or an equivalent credit rating from any other major International Rating Agency and which	Page No. 3	The proposed amendments correspond to positive developments towards a more open and balanced reinsurance market, and the RAB welcomes the proposals made by the IRDAI. The RAB welcomes the proposal to bring foreign reinsurance branches (FRBs), Lloyd's India and International Financial Services Centre Insurance Offices (IIOs) on a par with the state reinsurance company. However, the RAB believes that such changes should be made in conjunction with other amendments to the existing laws and regulations	This move affords insurers increased discretion to consider the policyholders' best interests and is a positive step towards the liberalisation of the market. Giving FRBs Category 1 status allows them to play a greater role in strengthening the Indian reinsurance market and may act as an incentive for further Lloyd's syndicates and reinsurers to establish themselves onshore. Nonetheless, the RAB considers that the decision to purchase reinsurance should not be based on the geographical location of a reinsurer but on a prudent assessment of the reinsurer based on financial strength, credit ratings, business expertise and experience. The RAB would therefore suggest that, while the proposal is a step in the right

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	retains minimum 50% of the premium in India in the manner as specified by the Authority; c) Category 3: Other Indian Insurers (only in respect of per-risk Facultative placements) and other CBRs)		to create a proper level playing field for foreign reinsurance branches (FRBs). In particular, FRBs should be considered as resident under the Income Tax Act. In addition, requirements for the maintenance of assigned capital or repatriation of capital/surplus applicable to FRBs should be removed or eased. Restrictions on the outsourcing of functions severely affect the ability of FRBs to benefit from systems and process support from other entities in their group or from best-in-class global service providers. Furthermore, the RAB opposes the proposed requirement for cross-border reinsurers (CBRs) to retain 50% of premium with their cedants by way of collateral. Similarly, the RAB recommends removing the 50% retention of reinsurance premium by locally domiciled branches of foreign reinsurers.	direction, ultimately Indian cedants and policyholders are best served by an open reinsurance market with no mandated order of preference. The RAB believes that there should be no significant restrictions or disincentives to cross-border business, such as retentions based merely on the geographical location of a reinsurer. Full access to cross-border reinsurance has tangible benefits for any domestic insurance industry, consumers and the wider economy. Indian insurers are best placed to ensure that the reinsurance arrangements they enter into are subject to appropriate controls and risk management. The high FRB tax rate has to be reflected in the reinsurance premiums charged, making FRBs less competitive than local players, which enjoy an effective tax rate of only 22% plus surcharge/education cess. This large difference in the effective tax rate cannot be absorbed by FRBs and heavily constrains the viability of their business. This puts them at a significant disadvantage. If excess capital that goes beyond what is needed to meet local capital requirements cannot be repatriated, a parent undertaking's ability to make efficient use of its capital and react flexibly to changing market conditions is severely limited. Consequently, parent undertakings will be hesitant to bring in additional capital to increase the business written through Indian FRBs. This also undermines the prospect of future additional investment in India from the headquarters of Indian FRBs.

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<tr><td></td><td></td><td></td><td></td><td>Intragroup servicing arrangements keep the cost of operations under control, which further contributes to the offering to ceding companies and the profitability of the branch.

In order to ensure an equitable treatment of cross-border reinsurers and local branches, the RAB would also recommend removing the existing requirement that locally domiciled branches of foreign reinsurers retain 50% of reinsurance premiums.</td></tr>
<tr><td>6(1)</td><td>8. Cession limits:
1. Re-insurance placements with CBRs by the Indian Insurers transacting other than life insurance business shall be subject to the following overall cession limits during a financial year.
<table>
<tr><td>Rating of the CBR as per Standard & Poor or equivalent</td><td>Maximum overall cession limits* allowed per CBR</td></tr>
<tr><td>Greater than A+</td><td>such amount* as may be specified by the Authority from time to time or 30%, whichever is higher</td></tr>
<tr><td>Greater than BBB+ and up to and including A+</td><td>20%</td></tr>
<tr><td>BBB & BBB+</td><td>10%</td></tr>
</table>
*At present Rs. 200 crs</td><td>Page No. 3</td><td>The RAB supports the further increase in the maximum cession limit for CBRs. Nonetheless, the RAB urges the IRDAI to reconsider its current regime of restrictive practices and to pursue a regime under which all cession limits are lifted.

The RAB notes the revised wording change from “Cedants” to “Indian Insurers” and would recommend returning to the previous wording.</td><td>While the RAB supports the further increase for CBRs, the RAB considers that the existence of maximum cession limits discriminates against foreign reinsurers to the detriment of the Indian market.

Limiting the cessions would prevent “Indian Insurers” (which includes FRBs who internally retrocede to achieve economies of scale), from optimised risk buying. The resulting cost would ultimately pass on as a higher reinsurance cost to cedants and, ultimately, to policyholders.

The cedant’s decision to purchase reinsurance should be a business decision that is made by the prudent selection of a reinsurer, based on financial strength, ratings and quality. It is not in the ultimate interest of the policyholder to have cedants’ access to international reinsurance markets restricted.

Open reinsurance markets are vital to enable reinsurance markets to operate efficiently, to diversify risk globally and to promote the continued growth and recovery of global and national economies. Barriers to cross-border reinsurance undermine the efficiency of reinsurance markets and lead to higher reinsurance</td></tr>
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				costs and less capacity in the long term, to the detriment of policyholders. Although "Indian Insurers" is a term including FRBs, the RAB believes that returning to the previous wording ("cedants") would avoid any uncertainties with regards to FRBs, when implementing this provision.
12(4)	15. In Regulation 12, sub-Regulation (4) is inserted: (4) The Chairperson of the Authority may issue guidelines on issuance of File Reference Number (FRN) to CBR, conditions of renewal of FRN (Regulation 4), ART (Regulation 8), concentration limits of CBR in India, the manner in which Category 2 CBRs retains premium as per Reg. 5, sub regulation (2)(A) (b) and regulatory framework of domestic Insurance Pools.	Page No. 4	The RAB welcomes the possibility for the Chairperson to issue guidelines on the issuance and renewal of the File Reference Number (FRN), as this could increase the transparency of the process. The RAB welcomes that this would be done through guidelines, rather than having the procedure enshrined in regulations.	The RAB believes that the CBR application process and FRN renewal has not always been clear and transparent. This lack of legal certainty and transparency poses a challenge not just to international companies wishing to do cross-border business in India but also to cedants who rely on the continued availability of international risk capacity at competitive terms. Consequently, the RAB believes that the publication of guidelines would help to increase the transparency of the process. In order to allow for open and efficient reinsurance markets, it is important that the guidelines guarantee open market access and a level playing field for CBRs.

Insurance Europe's Reinsurance Advisory Board (RAB) is a specialist representative body for the European reinsurance industry. It is represented at chairman or CEO level by the seven largest European reinsurance firms: Gen Re, Hannover Re, Lloyd's, Munich Re, PartnerRe, SCOR and Swiss Re. Through its member bodies, the RAB represents around 60% of total worldwide reinsurance premium income.