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STANDING COMMITTEE ON FINANCE

(2009-10)

FIFTEENTH LOK SABHA

Ministry of Finance (Department of Financial Services)

The Life Insurance Corporation (Amendment) Bill, 2009

SEVENTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

March, 2010/ Phalguna, 1931 (Saka)

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The Life Insurance Corporation (Amendment) Bill, 2009

Presented to Lok Sabha on 12 March, 2010
Laid in Rajya Sabha on 12 March, 2010



LOK SABHA SECRETARIAT
NEW DELHI

March, 2010/Phalguna, 1931 (Saka)

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COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2009-2010

Dr. Murli Manohar Joshi - Chairman

MEMBERS

LOK SABHA

2. Dr. Baliram (Lalganj)
3. Shri Sudip Bandyopadhyay
4. Shri C.M. Chang
5. Shri Harishchandra Chavan
6. Shri Bhakta Charan Das
7. Shri Gurudas Dasgupta
8. Shri Khagen Das
9. Shri Nishikant Dubey
10. Smt. Jayaprada
11. Shri Bhartruhari Mahtab
12. Shri Mangani Lal Mandal
13. Shri Rayapati Sambasiva Rao
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15. Shri Y.S. Jagan Mohan Reddy
16. Shri N. Dharam Singh
17. Shri Sarvey Sathyanarayana
18. Shri Manicka Tagore
19. Dr. M. Thambidurai
20. Shri Anjankumar M. Yadav
21. Shri G.M. Siddeshwara*

RAJYA SABHA

22. Shri Raashid Alvi
23. Dr. K.V.P. Ramachandra Rao
24. Shri Vijay Jawaharlal Darda
25. Shri S.S. Ahluwalia
26. Shri Moinul Hassan
27. Shri Mahendra Mohan
28. Shri S. Anbalagan
29. Dr. Mahendra Prasad
30. Shri Y.P. Trivedi
31. Shri Rajeev Chandrasekhar

SECRETARIAT

- | | | | |
|----|-------------------------|---|---------------------|
| 1. | Shri A.K. Singh | - | Joint Secretary |
| 2. | Shri T.G. Chandrasekhar | - | Additional Director |

* Nominated to this Committee w.e.f. 09.03.2010 vice Shri Gopinath Munde, MP

INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Seventh Report on the Life Insurance Corporation (Amendment) Bill, 2009. The Bill replaces the lapsed Life Insurance Corporation (Amendment) Bill, 2008, which was introduced in the Fourteenth Lok Sabha and referred to the previous Standing Committee on Finance (2008-09) by the Speaker, Lok Sabha for examination and report.

2. The Life Insurance Corporation (Amendment) Bill, 2009 introduced in Lok Sabha on 31 July, 2009 was referred to the Committee on 9 September, 2009 for examination and report thereon by the Speaker, Lok Sabha under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained written information on various provisions contained in the aforesaid Bill from the Ministry of Finance (Department of Financial Services).

4. The Committee received written views/memoranda from the Insurance Regulatory and Development Authority (IRDA), Hyderabad, Life Insurance Council Mumbai, National Insurance Academy, Pune, SBI Life Insurance Company Limited Mumbai, TATA AIG Life Insurance Company Limited, Mumbai, Federation of LIC of India Class-I Officers Association, Mumbai, All India LIC Employees Federation, Mumbai, All India Insurance Employees Association (AIIEA), Hyderabad, Northern Zone Insurance Employees Association, New Delhi, Life Insurance Agents Federation of India, Hyderabad and Shri N. Rangachary, former Chairman, IRDA.

5. The Committee took evidence of the representatives of the Ministry of Finance (Department of Financial Services), Insurance Regulatory and Development Authority (IRDA) and the Life Insurance Corporation of India (LIC). The Committee also heard the representatives of the All India Insurance Employees Association and the Life Insurance Agents Federation of India.

6. The Committee considered and adopted this report at their sitting held on 10 March, 2010.

7. The Committee wish to express their thanks to the representatives of the Ministry of Finance (Department of Financial Services), Insurance Regulatory and Development Authority (IRDA), Life Insurance Corporation of India (LIC), All India Insurance Employees Association and the Life Insurance Agents Federation of India for

appearing before the Committee and furnishing the material and information which were desired in connection with the examination of the Bill.

8. The Committee also wish to express their thanks to Life Insurance Council, Mumbai, National Insurance Academy, Pune, SBI Life Insurance Company Limited, Mumbai, TATA AIG Life Insurance Company Limited, Mumbai, Federation of LIC of India Class-I Officers' Association, Mumbai, All India LIC Employees Federation, Mumbai, All India Insurance Employees Association (AIIEA), Hyderabad, Northern Zone Insurance Employees Association, New Delhi, Life Insurance Agents Federation of India, Hyderabad and Shri N. Rangachary, former Chairman, IRDA for furnishing written views/memoranda on the Bill.

9. For facility of reference, observations/recommendations of the Committee have been printed in thick type in the body of the Report.

**New Delhi;
10 March, 2010
19 Phalguna 1931 (Saka)**

**DR. MURLI MANOHAR JOSHI,
Chairman,
Standing Committee on Finance.**

REPORT

A. Background

Formal regulation of insurance industry in India started with the enactment of the Life Insurance Companies Act of 1912. By 1938, there were 176 insurance companies. However, the first comprehensive legislation was introduced with the Insurance Act of 1938 which stipulated a broad range of regulations over insurance business. The insurance business grew at a faster pace after Independence.

2. In 1956, the Government of India brought together over 240 private life insurers and provident societies under one nationalized monopoly corporation, which witnessed the formation of Life Insurance Corporation of India (LIC) under an Act of Parliament. This Act also provided for the regulation and control of the insurance business of the LIC. The Insurance Act, 1938, remained as the principal law to regulate and exercise supervision over all entities transacting insurance business in India. However, LIC Act 1956 at no stage mentioned the applicability of the Insurance Act, 1938, to it and prima facie, the Controller of Insurance who continued to exist under the Insurance Act, 1938, did not have a role to play in the management, control and dealings of the life business. It, therefore, called for an introduction in the LIC Act of certain provisions regarding the control and supervision of insurance business and these powers were reserved to the Central Government. After the opening of the sector to private participation, Section 30A was introduced in the LIC Act which made it obligatory on the part of the LIC to follow the provisions of the Insurance Act, 1938, after the establishment of the Insurance Regulatory and Development Authority (IRDA).

3. With the enactment of the Insurance Regulatory and Development Authority Act, 1999, the insurance business was opened up to the private sector, as a result of which, in addition to LIC, presently twenty private sector companies have started transacting life insurance business in our country.

4. The Insurance Regulatory and Development Authority (IRDA), while recommending amendments to the Insurance Act, 1938, the Insurance Regulatory and Development Authority Act, 1999 and the General Insurance Business (Nationalization) Act, 1972 also made recommendations for amendment in the Life Insurance Corporation Act, 1956, in order to bring this Act in consonance with the Insurance Act, 1938. The Government, in consultation with the LIC, finalized amendments to the LIC Act.

5. Earlier, in the Fourteenth Lok Sabha, the Life Insurance Corporation (Amendment) Bill, 2008 was introduced on 22.12.2008 to amend some of the provisions of the LIC Act, 1956 which were not in alignment with the other prevailing Acts. The Bill was referred to the Standing Committee on Finance (2008-09) on 23.12.2008 by the Speaker for examination and report thereon. However, owing to the dissolution of the 14th Lok Sabha, the Bill lapsed. Following the constitution of the 15th Lok Sabha, the Life Insurance Corporation (Amendment) Bill, 2009 was introduced in Lok Sabha on 31.07.2009 and referred by the Speaker to the Standing Committee on Finance (2009-10) for examination and report on 9.9.2009.

6. The Bill proposes to amend the LIC Act, 1956, *inter-alia* to:-

- (i) provide for raising of minimum capital of the Life Insurance Corporation of India from five crore of rupees to one hundred crore of rupees which can further be enhanced to such amount as the Central Government may, by notification, determine;
- (ii) provide sovereign guarantee to the policies of LIC to the extent to be determined, by order, by the Central Government from time to time;
- (iii) allocate ninety per cent or more of such surplus, as the Central Government may approve, for the life insurance policy-holders of the LIC and to credit such percentage of remaining surplus, as the Central Government may approve, to a separate account maintained by the Life Insurance Corporation, to be utilized for such purpose as the Central Government may determine, and pay the remainder as dividend; and
- (iv) empower Life Insurance Corporation to make regulations in respect of terms and conditions of the agents.

7. The Committee invited memoranda/suggestions regarding the Life Insurance Corporation (Amendment) Bill, 2009 from life insurance companies, both in public and private sector, Insurance Regulatory and Development Authority (IRDA), Life Insurance Council, National Insurance Academy, Pune, Employees' associations/Federations of LIC and individual experts. The Committee also took oral evidence of the representatives of the Ministry of Finance (Department of Financial Services), IRDA, LIC, Employees and Agents associations in connection with the examination of the Bill.

8. The avowed purpose of the Government in introducing the Life Insurance Corporation (Amendment) Bill, 2009 is to bring the Life Insurance Corporation Act, 1956 in consonance with the Insurance Act, 1938, the principal law to regulate and exercise supervision over entities transacting insurance business in the Country. The amendment proposals to this effect are, inter-alia aimed at, raising the capital of LIC from Rs. 5 crore to Rs. 100 crore, which may further be enhanced by the Central Government by notification; allocating 90% instead of 95% of the valuation surplus of the corporation for policy holders and crediting a percentage of balance to a separate account; allowing the Government to assign a monetary value on the sovereign guarantee about payment in cash of the sum assured to the policies issued by LIC; and doing away with the power to make regulations by the Central Government in respect of agents and assigning the power to LIC.

9. The Committee's examination of the Bill brought to light certain key issues which mainly relate to the possible adverse or negative implications of the amendment proposals on the business prospects of LIC as well as on the policyholders interest. The Committee feel constrained to note that the negative implications that the amendment proposals would have on the functioning of LIC do not seem to have been examined and assessed adequately by the Government before moving them in the Bill under consideration. Key issues pertaining to the specific amendment proposals of the Bill that have been brought to the fore are dealt with in the subsequent sections of this report. The Committee recommend consideration of the Bill subject to the observations made/modifications suggested in this report.

B. Clause 2: Capital of Life Insurance Corporation – (Substitution of new Section for Section 5)

10. Clause 2 of the Bill which seeks to substitute a new section for Section 5 of the LIC Act, 1956 enabling the Central Government to raise the capital of LIC reads as under:-

“5. The paid up equity capital of the Corporation shall be one hundred crore of rupees provided by the Central Government after due appropriation made by Parliament by law for the purpose and which may be enhanced to such an amount as the Central Government may, by notification, determine”.

11. On the proposed substitution of the new Section to raise the paid-up capital of LIC to Rs. 100 crore, the Ministry of Finance (Department of Financial Sector), in a written note furnished to the Committee, stated as follows:-

“Section 6 of the Insurance Act, 1938 prescribes a paid-up equity capital of rupees one hundred crore in case of life insurance or general insurance business. However, as per the existing Section 5 of the LIC Act, the capital of LIC shall be Rs. 5 crore which may be reduced by the Central Government as per Section 5(2). It is proposed to enhance the capital of LIC to Rs. 100 crore or to such amount as the Central Government may, by notification, determine to bring it in tune with provisions of the Insurance Act, 1938 by amending Section 5 of the LIC Act, 1956. The additional fund shall be provided by the Government after due appropriation made by Parliament. Further, flexibility has been retained to enhance the share capital in future”.

12. Questioned on the rationale for proposing to increase the paid-up capital of LIC to Rs. 100 crore, the then Finance Secretary, while deposing before the previous Committee on 13 January, 2009 had replied as under:-

“the rationale for why it is Rs.100 crore and why it should not be a higher amount is perhaps to keep in line with the statute. That is the only reason. The other issue is that the Central Government is going to subscribe to the equity. It is not going to be floated in the market; the public are not going to subscribe. It is given in the amendment. It says that the paid up equity of the corporation shall be Rs.100 crore provided by the Central Government, after due appropriation made by Parliament by law for the purpose”.

13. The Ministry of Finance (Department of Financial Services) in a written reply to a related query on the rationale for the proposed increase of paid-up equity capital of LIC to Rs.100 crore and according flexibility to the Central Government to enhance the paid up equity capital of the Corporation further (beyond Rs. 100 crore) by way of issue of notification, stated *inter alia*, as follows:-

A comprehensive amendment of all Insurance Laws was being considered by the Government. In order to bring the capital requirement for LIC also in line with the provisions of the Insurance Act and thereby maintain a level playing field, IRDA recommended enhancement of the paid-up equity capital of LIC to rupees one hundred crore on par with other companies carrying on life insurance business in India and to retain flexibility to enhance share capital, Government has accepted the recommendations of the IRDA and hence the proposed amendment.

14. On the specific issue of proposing to enable the Central Government to raise the paid up equity capital in excess of Rs. 100 crore by issue of a notification, the reply of the Ministry reads, *inter alia* as follows:

“...The intention behind providing for further enhancement of the share capital of LIC by the Central Government, by notification, is to allow flexibility for augmenting the share capital of LIC at par with other life insurance companies in consonance with the changes, if any, warranted by future amendment of relevant provisions of the Insurance Act, 1938.

We have gone through various other Acts of Parliament, such as Export-Import Bank of India Act, 1981, Industrial Development Bank of India Act, 1964 and NABARD Act, 1981 and it has been observed that all these Acts provide for the initial authorized /paid up capital with further provision for enhancing by notification to be issued by the Central Government. The relevant sections of the Acts are as under:-

(i) **The Export-Import Bank of India Act, 1981 (28 of 1981)**

4. Authorised capital.-

(1) The authorised capital of the Exim Bank shall be two hundred crores of rupees: **Provided that the Central Government may, by**

notification, increase the said capital up to five hundred crores of rupees;

(ii) **The Industrial Development Bank of India Act, 1964 (18 of 1964)**

4. Authorised capital.-

The authorized capital of Development Bank shall be one thousand crores of rupees: **Provided that the Central Government may, by notification in the Official Gazette, increase the said capital up to two thousand crores of rupees.**

(iii) **The National Bank for Agriculture and Rural Development Act, 1981**

4. Capital.-

(1) The capital of the National Bank shall be one hundred crores of rupees: **Provided that the Central Government may, in consultation with the Reserve Bank and by notification, increase the said capital up to five hundred crores of rupees:**

It is further clarified that the enhanced amount shall be provided by the Central Government after due appropriation made by Parliament by law for the purpose. Further, if there is any enhancement of the paid up equity capital by way of notification, the same shall also be provided by the Central Government after due appropriation made by the Parliament by law for the purpose.”

15. When pointed out that the new Section 5 proposed to be substituted in terms of the amendments proposed under clause 2 of the Bill does not specifically provide for appropriation to be made by Parliament each time the capital of the Corporation is enhanced, the then Finance Secretary, while deposing before the previous Committee on 13 January, 2009 had replied as under:-

“That is the paid up capital, which may be enhanced by such an amount as the Central Government may provide. My feeling is that this amendment to make it as Rs.100-150-200 crore is needed by the notification; but the Central Government has to come to Parliament for enhancement of the amount”.

16. By way of explaining the rationale and the necessity of the proposed enhancement of the paid-up equity capital of the Corporation, the Chairman, LIC, while deposing before the previous Committee on 13 January, 2009 ,stated as follows:-

“The LIC Act does not have a provision for enhancing the capital nor for creation of a general reserve of the Corporation. Even Rs.5 crore can be reduced by the Central Government. This is the provision of the Act. When the IRDA was formed and when the other companies were allowed to be established, the minimum capital was sought to be increased to Rs.100 crore, whereas the LIC had only Rs.5 crore. I believe, this amendment makes the LIC capital at par with the minimum capital requirement as per the IRDA Act. Subsequently, there is also a provision to create a general reserve of the Corporation. The same amount can be kept for the general reserve. The purpose is also like this. Many of the social security services that we render are provided for the Government from the Budget and the social security funds are created. If there is a provision in the LIC Act to create a general reserve, it means that if the Government decides, a part of the surplus can be kept as surplus reserves and then, this will become a self-supporting for many of the activities entrusted by the Government for it”.

17. In this regard, the Ministry of Finance (Department of Financial Services) in a post evidence reply, stated:

“Life Insurance Corporation is also operating in countries outside India either through the subsidiary route or by operation of their branch offices there. Enhancement of capital from Rs. 5 crores to Rs. 100 crores will also be of help to LIC in displaying a better capital structure to the regulators of those countries where it is operating.”

18. Touching on the issue of adequate solvency margin and reserves of LIC, the Secretary, Department of Financial Services, while tendering evidence before the Committee on 22 January, 2010 stated :

“Unfortunately, we did not have time to explain on the solvency side. There are two aspects to it. The first is, how is the strength coming from? The strength is coming partly from the guarantee and partly from the reserves you build up. Reserves are the first set of bulwark against what is going to happen. Underlying thing is the guarantee, which is subsisting below the reserves. Our idea is to ensure that the reserves and the solvency are built up through this Act to enable LIC to perform or when the growth is going to take place in a huge manner, LIC should play its role sufficiently, so that it has strength to play those roles.”

19. The All India LIC Employees Federation however, questioned the rationale of the proposed increase in the paid-up capital of LIC. In this regard, the Federation, in their memorandum submitted to the Committee, stated as under:-

“The only apparent consideration for this move is to bring LIC’s capital in line with the provisions of the IRDA Regulations which require all insurance companies to have a minimum capital of Rs. 100 crore. The IRDA Regulations require insurance companies to provide solvency margin (including capital) in line with its size of business. LIC’s capital, including provision for solvency margin has exceeded Rs. 30,000 crore. This reserve built up by transfers from surplus (profit) after tax, is akin to general reserve and therefore, for all purposes, equivalent to capital but with one difference. Ninety five percent of this capital belongs to policyholders. Thus the move to raise the capital from Rs. Five crore to Rs. One hundred crore is wholly unwarranted”.

20. Expressing concerns in regard to the purpose behind the proposed increase of the capital of the corporation, a representative of the All India Insurance Employees Association, while deposing before the Committee on 22 January, 2010 stated as below:

“On the face of it, any increase in the capital has to be welcomed but this increase in the capital is being proposed in the background of the Malhotra Committee recommending disinvestments in the Life Insurance Corporation. Also a Committee had been appointed by the Government sometime back to go into the financial strength of the Life Insurance Corporation. Since that Committee has also recommended corporatisation of the Life Insurance Corporation, we have got very serious concern that increase in the capital of the Life Insurance Corporation is a step towards corporatisation in the future...there is absolutely no need for increase in the capital of Life Insurance Corporation because as on today the assets of Life Insurance Corporation are Rs. 10 lakh crore which has been built on a capital of Rs.5 crore.”

21. Similarly, in their memorandum submitted to the Committee, the All India LIC Employees’ Federation also stated as follows:-

“The Government’s move also raise several other issues. Primarily, this gives a signal that at some time hereafter the Government may offload a part of its shares to the private sector, Indian and foreign.

On the Government’s own admission, the recent very serious economic crisis affected India to a much lesser extent because our financial institutions were largely in the public sector. The Government must, therefore, reiterate very categorically that not even the slightest part of its shareholding would be sold out at any time. With the IRDA Act and amendment of Insurance Act, the Indian public has the choice to opt for LIC or a private life insurance company. Let that freedom of choice continue.”

22. Expressing views similar to those of the All India LIC Employees' Federation, the Federation of LIC Class-I Officers' Association, in their Memorandum stated as follows:-

"LIC has come into being by the Act of Parliament "and as the ownership of the Corporation is totally resting with the Central Government it hardly matters whether the share capital is increased to one hundred crore rupees or more as long as the total ownership is remaining with the Government. There is no valid reason to dilute the stake of the Government in LIC as this is one of the very few Financial Institutions in the Public Sector which continues to excel in performance year after year fulfilling both the social and national Objectives of Nationlization. IRDA requirements, if any can only be applicable to the newly established Companies and not to LIC. Hence, proposed amendment should be considered for dropping".

23. On the capital structure of the Corporation, as prevailing, and the proposed amendment to enhance the paid up capital, the National Insurance Academy, Pune, in their memorandum submitted to the Committee stated, inter-alia, as under:-

"World is moving towards Risk Based Capital (RBC) regime from erstwhile solvency regime. In solvency regime capital is immaterial so long as solvency is maintained by generating reserves. But in RBC regime, Capital has to be a-priori committed before assuming various segments of risk in course of insurance business.

In the capital convergence regime (Basel II), LIC's capital should be risk free for any other purpose excepting for purpose of conducting life insurance of its own. But presently LIC also does strategic capital investments in subsidiaries and other businesses for which capital has to be carved out as per international best practice. But LIC has only Rs. 5 crore capital whereas LIC has engaged in huge strategic capital deployment. There should be a transparent, legally and prudentially valid way of such capital deployment with risk participation in areas other than Life Insurance. It is at least prudentially wrong to carve out such strategic capital investments from policyholders' funds due to Asset-liability management considerations."

24. Supporting the proposed amendment to increase the paid-up capital of LIC, Shri N. Rangachari, former Chairman, IRDA, in a written memorandum submitted to the Committee *inter-alia* stated as follows:-

“...In fact, the parliament at the time of passing the IRDA Act had clearly specified that the LIC and the new insurance companies would have the same field of operation and there will be no discrimination between one and the other.

One of the consequences of such a level playing field is the adequacy of capital. The capital of an insurance company is necessary not only to start business, but also to sustain it over a period of time. Capital is also necessary for a life insurer to meet obligations which are not those of the policyholders. In fact the accounts of the LIC as were made prior to 2000 had only one account namely policyholders' account, since whatever activity was carried out by the LIC was for and on behalf of its policyholders. This obviously led to a practice whereby obligation of the Corporation which has absolutely no relevance to the carrying on the life insurance business which came to be thrust on it by the Government were met out of the policyholders fund. For example – LIC had started a mutual fund, a house mortgage company etc., whose capital came from the policyholders' fund. Some of such activities resulted in losses as well at some points of time.

..... It is concluded accordingly that some of the subsidiary activities carried on by the Corporation did not result in profits in the past and in fact to meet these losses, the Corporation had to dip into the surplus of the life fund available to the life policyholders. This situation would not have been there if the capital structure of the Corporation had been properly made and there was an obligation on the part of the Corporation to delink obligations not concerned with the life business and state them separately. This would have called for the availability of surplus capital over and above the investment in life business.”

25. Suggesting *inter-alia* that the amendments proposed under clause 2 should enable the Corporation to raise other forms of capital too apart from equity capital, the Life Insurance Council, Mumbai in their Memorandum submitted to the Committee stated as follows:-

The equity capital of insurance company is proposed to be raised to 100 crores in keeping with the provisions of the Insurance Act. However under clause 13 of the proposed Insurance Amendment Bill 2008 – Sec 6A sub section (1) clause (i) is proposed to be amended to read as under :

“That the capital of the company shall consist of equity shares each having a single face value and such other forms of capital, as may be specified by the regulations.”

The words used in the Principal Act (LIC Act of 1956) were 'capital' which would cover both equity and preference. The amendment as proposed would exclude use of preference capital for tier two capital. Of course long term debt would be covered under Sec 6 (2)(f) of the principal Act. The amendment as proposed in the new bill is "paid up equity capital". It is suggested that in lieu of above "paid up capital" should be used.

We propose that the section 5 of the LIC Bill 2008 should read as under " The paid up equity capital of the corporation shall be one hundred crore of rupees provided by the Central Government after due appropriation made by parliament by law for the purpose and which may be enhanced to such an amount (and in such form) as central government may, by notification, determine".

26. In this regard, the Ministry of Finance (Department of Financial Services), in a written reply to a question on the above mentioned suggestion of the Life Insurance Council, stated, inter-alia, as under:-

- (a) and (b) : "Keeping in view the proposed amendments in Section 6A we may agree with the suggestion to provide for raising such other forms of capital as per IRDA regulations by redrafting clause 2 of the Life Insurance Corporation (Amendment) Bill, 2008."

27. Raising the paid up capital of LIC from Rs. 5 crore to Rs. 100 crore by substituting a new section for the existing Section 5 of the LIC Act in terms of Clause 2 would as per the Government's contention, be in consonance with the provisions of the Insurance Act, 1938, and enable the Corporation to display a better capital structure for meeting its business as well as social sector obligations. The contrary view expressed by the employees associations as well as others, however, questions the necessity of this proposal mainly in view of the fact that LIC has functioned efficiently all these years. Raising the paid up capital of LIC in line with the provisions of the Insurance Act, 1938 and as applicable to the Life Insurance companies in general may, perhaps be appropriate. The Committee, however, find it to be important to point out here that while, as per the Government's contention any enhancement of the paid up equity capital of the corporation in excess of Rs. 100 crore by way of notification would also be provided by the Central Government by due appropriation made by Parliament, this aspect has not been specified in the new Section 5. The apprehensions expressed on the amendment proposal center on the possibility of LIC floating a public issue for enhanced paid up capital requirement in future and its possible implications on the Government's holding in the Corporation. The Committee, with the view to obviate the apprehensions expressed recommend that the new Section 5 be suitably modified to confine the proposal to raising the equity capital of the Corporation to Rs. 100 crore. Any further raise in the capital in excess of Rs. 100 crore, if and when required, may be provided by the Central Government through appropriations made by Parliament by moving an amendment to this effect in the Principal Act governing LIC.

28. As also pointed by the Life Insurance Council, the Committee note that the amendment proposals under Clause 2, in a way, restrict LIC to raise capital only by equity and leave out other forms of capital such as preference capital, debt etc. As agreed to by the Government, the Committee expect that Clause 2 of the Bill would be suitably modified so as to enable LIC to raise other forms of capital for meeting its working capital requirements.

Clause 3: Opening of Branches (Amendment of Section 18)

29. Section 18(4) of the LIC Act, 1956 empowers the Zonal Manager to establish as many divisional offices and branches in each zone as he thinks fit.

30. Clause 3 of the bill, proposing to amend the above Section, reads as below:

“In Section 18 of the principal Act, sub-section (4) shall be omitted.”

31. Explaining the rationale behind the amendment as proposed, the Ministry of Finance (Department of Financial Services), in a written note submitted as follows:

“As per the proposed amendments in the Insurance Act, 1938, contained in the Insurance Laws (Amendment) Bill, 2008, the opening and closing of foreign and domestic branches of Indian insurers may be regulated by IRDA. It is proposed that IRDA may frame regulations in this regard.

Under the existing Section 18(4) of the LIC Act, 1956, the power to open divisional offices and branches rests with the Zonal Manager of the LIC. In view of the proposed amendment in the Insurance Act, 1938, it is proposed to delete sub section (4) of Section 18 of the LIC Act so as to provide for opening of branches as per the regulations to be framed by IRDA.”

32. In this regard, the IRDA, in their written memorandum submitted to the Committee, stated as follows:

“In terms of Section 64 VC of the Insurance Act, 1938, any insurance company is to seek the prior permission of the IRDA for opening new branches. However, Section 18(4) of the LIC Act, 1956 empowers the Zonal Manager of the LIC to establish as many divisional offices and branches in each zone as he thinks fit.

The amendment proposes to omit sub section 18(4) of the LIC Act. As a consequence of this, the LIC would have to obtain prior permission of the IRDA for opening of new branches which is the Law as applicable to all insurers operating in India.”

33. However as per the written submission of the Ministry of Finance (Department of Financial Services), the views expressed by LIC on the proposed provision of sub-section (4) of section 18 is as under:

“In view of the social role, which LIC has been playing as per Central Government direction, LIC is of the firm opinion that

LIC should be continued to be permitted to open new Branch/ Divisional Office in accordance with Section 18(4).”

34. The Federation of LIC Class-I Officers’ Association, in their written memorandum have stated as follows in regard to the proposed amendment in Clause 3:

“With customer number standing at about 25 crores which is likely to reach 50 crore mark in the next five to six years time, there is an immediate need for increasing Zonal Offices by establishing separate Zonal Office at every State (one zonal office for North East States) and the parliament should consider suitable amendment to sub section (2) and (3) of Section 18 to make provision for the same with territorial limits of each zone conforming to the State boundaries. Further there is an ever increasing need for opening more number of branches and omission of Sub Section (4) will lead to more delays and confusion in looking to the Government machinery for sanction of new branches or small offices. Sub sections (2) and (3) should be considered for amendment suitably and omission of sub section (4) should be considered for dropping.”

35. Expressing apprehension that the proposed amendment will affect the future growth of LIC, a representative of the All India Insurance Employees Association, while deposing before the Committee, stated as under:

“we also have one issue in sub-section 4 of Section 18 of the present Amendment Bill, wherein they say about the power of the Zonal Manager to recommend the opening of the Divisional Offices and the Branch Offices. This power is being taken away and the Act does not say about the alternative and to whom it should go. There is nothing about that mentioned. It looks that it will impede the growth of the LIC with that kind of an uncertainty.”

36. Deletion of Section 18 (4) of the LIC Act, 1956 as proposed under Clause 3 of the Bill is intended to do away with the power of LIC in expanding its branch network and vest this power with the IRDA. The Committee do not find merit in the proposed amendment as this might have the negative effect of limiting the future branch network expansion of LIC and thereby the growth of the Corporation's business. As indicated in the information furnished to the Committee by the Ministry, as is the case with the employees' associations, the LIC too has favoured retaining the freedom to open new branches in view of the various social responsibilities assigned to the Corporation. The Committee are of the view in this regard that while the broad guidelines relating to opening of branches issued by the IRDA should be made applicable to LIC, the Corporation should continue to retain the power of opening new branches so as to serve the interest of reaching out to the vast network of customers, especially in rural areas. The Committee, therefore, recommend that the existing provisions of Section 18 (4) of the Principal Act be modified to give effect to this proposal.

.Clause 5: Surplus from life insurance business, how to be utilised (Substitution of new Section for Section 28)

37. Clause 5 of the Bill which seeks to substitute a new section for Section 28 of the LIC Act, 1956, reads as under:

For Section 28 of the Principal Act, the following section shall be substituted, namely:

“28.(1) If as a result of any investigation undertaken by the Corporation under section 26, any surplus emerges,

(a) ninety per cent or more such surplus, as the Central Government may approve, shall be allocated to or reserved for the life insurance policy-holders of the Corporation;

(b) such percentage of remaining surplus as the Central Government may approve shall be credited to separate account maintained by the Corporation; and

(c) the remainder shall be paid as dividend.

(2) the funds available in the account maintained by the Corporation under clause (b) of sub-section (1) shall be utilized for such purpose and in such manner as the Central Government may determine”.

38. On the rationale of the proposed substitution of new section for the existing Section 28 of the LIC Act, 1956, the Ministry of Finance (Department of Financial Services) informed as under:-

“Section 49 of the Insurance Act, 1938 provides that the share of surplus allocated to or reserved for the shareholders shall not exceed ten per cent. This implies distribution of 90 per cent of the surplus generated by life insurers amongst the policy holders. However, according to Section 28 of the LIC Act, 1956 ninety five per cent or more of the valuation surplus goes to policy holders and the balance is to be paid to the Government or to be utilized for such purposes and in such manner as the Government may determine. In order to strengthen the financial position of LIC, it is proposed that LIC should plough back a portion of its surplus for creating a statutory reserve before distribution to policy holders and Government. Accordingly, it is proposed that ninety per cent or more of such surplus, as the Central Government may approve, shall be allocated to or reserved for the life insurance policy holders of the Corporation and such percentage of

remaining surplus as the Central Government may approve shall be credited to a separate account maintained by the LIC, to be utilized for such purpose as the Central Government may determine, and the remainder shall be paid as dividend to the Government”.

39. The recommendation of IRDA on re-drafting section 28 of the LIC Act, 1956 vis-à-vis Section 49 of the Insurance Act, 1958 which provides that the share of any surplus that can be allocated to shareholders can in no case exceed 10% of such surplus, as informed by the Ministry of Finance (Department of Financial Services), in one of their written submissions, is as under:

“If as a result of any investigation undertaken by the Corporation under section 26 any surplus emerges, then after providing for transfer to statutory reserve fund in terms of section 24A, ninety five percent of such surplus or such higher percentage thereof as the Central Government may approve shall be allocated to or reserved for the life insurance policy holders of the Corporation and after meeting the liabilities of the Corporation, if any, which may arise under section 9, the remainder shall be paid to the Central Government or, if that Government so directs, be utilized for such purposes and in such manner as that Government may determine”.

40. The stance of LIC on the proposal to amend Section 28 of the LIC Act, 1956, as informed by the Ministry, is as under:

“Section 28 may be suitably amended for provision of solvency margin, as may be specified by the Authority, before arriving at surplus. Existing provisions of allocation of bonuses to policy holders may be retained”.

41. In response to a question on the justification for the proposed amendment, the Ministry of Finance (Department of Financial Services) submitted as follows:

“In terms of section 49 of the Insurance Act, 1938, ninety per cent of the surplus generated by life insurers can be distributed amongst the policy-holders. However, according to section 28 of the LIC Act, 1956, ninety-five per cent or more of the valuation surplus goes to the policy-holders and the balance is to be paid to the Government or to be utilized for such purposes and in such manner as the Government may determine. There is no provision for creation of reserves. In order to strengthen the financial position of LIC, the amendment proposes that LIC should plough back a portion of its surplus for creating a separate account before distribution to policy-holders and Government. The

surplus to be distributed to the policy-holders shall be ninety per cent or more, as the Central Government may approve. The funds available in the separate fund maintained by LIC will be available to LIC for other businesses for which LIC may be required to put in share capital. These may be other class of businesses/businesses in other countries through SPVs or international companies. Presently, such funds have to be separately provided by Government of India.

Further, these funds can also be utilized for implementing social schemes on the pattern of Janashree Bima Yojana and Aam Admi Bima Yojana and other such schemes.

The unallocated reserves available in the LIC in this fund would also be available towards solvency margin. The solvency margin of LIC in the year 2006 was 130% which has now increased to 152% as on 31.3.2008. Thus, the reserve fund available with LIC will also help it in maintaining its solvency margin at the required level of 150%. Further, these reserves will also help LIC in depicting a better capital structure”.

42. On the amendment proposals pertaining to the percentage share of surplus that can be allocated to the policy holders, the Federation of LIC Class-I Officers’ Associations, in their memorandum, stated as follows:-

“Savings through LIC are long term investments for average of 20 to 25 years in most cases stretching also upto 30 to 40 years. Policy holders look to the returns matching with long term investment markets and any reduction of existing limit of 95% surplus to 90% for distribution to such long term investing policy holders is likely to drop the confidence levels of the policy holders in the ability of LIC to give good returns comparable to other long term investment opportunities and indirectly affects the support given by LIC to the infrastructure funding of the Government Schemes and projects. Hence, the proposed change should be considered for dropping”.

43. In this regard, the National Insurance Academy, (NIA), Pune, in their memorandum submitted to the Committee, stated as under:-

“As per section 5 of principal Act, 95% of surplus was allocable to policy holder and 5% to Central Government. As per IRDA provisions, LIC claims to have maintained solvency for its entire life insurance business meaning thereby the asset valuation is at least 50% higher than liability valuation in life insurance business. This solvency margin source is legally questionable when the Act required 95% to be policy holder payout or provision liability and

5% is payable and paid to Central government except for something related to section 9. Either policy holder who have exited the system are paid less thereby depriving them of their legitimate return as per principal act or Central Government have contributed to the entire solvency, which is not transparently known to public who invest in LIC policies. This should either be regularized in the Act or legitimate corrective payment made to exited and existing policy holders or source of solvency may be transparently conveyed to the public.”

44. On the rationale of the proposal to alter the pattern of distributable surplus a representative of the Ministry, while deposing before the Committee on 22 January, 2010 stated, as follows:

“Under the Insurance Act all the private life insurance companies are sharing it to the extent of 90 per cent. So, we are trying to bring it in line with other life insurance companies and that money will be in reserve for LIC...Strictly speaking, LIC today needs to have a solvency margin of approximately Rs. 50,000 crore.”

45. However, opposing the amendment as proposed, a representative of the All India Insurance Employees Association, while deposing before the Committee stated:

“Today, the Life Insurance Corporation has created a solvency reserve of around Rs. 40,000 crore and these Rs. 40,000 crore reserves along with the general reserve of Rs. 331 crore, which the Life Insurance Corporation now has, are more than enough to meet whatever requirements which the IRDA has in respect of giving the guarantee to the policy holders as well as the expansion of the Life Insurance Corporation...We also find that there is a move to reduce the bonus to the policy holders by altering the distribution pattern of the surplus of the Life Insurance Corporation. This, we feel, is very unfair to the policy holders. The policy holders who have purchased policies from the Life Insurance Corporation as per the present Act have been assured 95 per cent of the surplus to them. Now, the Government, by altering this surplus pattern, is trying to take away very unjustly what really belongs to the policy holders. So, this will seriously impact the returns to the policy holders and we find that 26 crore policy holders are going to be affected by this.”

46. The proposal to replace the existing Section 28 of the LIC Act with a new section in terms of the amendment proposals under Clause 5 is intended to reduce the distributable surplus to the policy holders from the existing position of a minimum of 95% to 90% or more, create a separate fund to which a specified percentage of the balance surplus would be apportioned, and pay the remaining surplus to the Government as dividend. Mainly on account of the fact that change in the surplus sharing formula would result in lesser returns to the policy holders of LIC, the Committee recommend that the existing percentage of distributable surplus to the policy holders i.e. 95% be retained, and of the balance, a fixed percentage as may be decided by the Government apportioned to the reserve fund the purpose of which should be spelt out by the Government, and the balance remaining thereafter paid as dividend to the Government. The Committee also note from the information furnished by the Ministry of Finance in this regard that the LIC too had recommended retaining the existing provisions of allocation of bonuses to policyholders.

47. The Committee are of the view that the amounts apportioned to the reserve/separate account should be utilized for insurance business only which would contribute to the overall returns generated by LIC. The Committee feel it to be essential to ensure that the reserve/separate fund is not utilized for non-income generating activities as such a measure would leave the possibility of LIC being put to a disadvantageous position vis-à-vis their counterparts in the private sector, who could, in a bid to gain market share, distribute surplus in excess of 90% to the policyholders in the short or medium term.

48. In view of the emerging intense competitive scenario, the Committee also recommend that the Government endeavour to maximize the returns to the

policyholders of LIC by ensuring deployment of the funds from the reserve/separate account in a profitable manner so as to enable LIC to offer higher returns on par with those of its counterparts in the private sector.

49. The Committee also note in this regard that some of the subsidiary activities carried out by LIC in the past resulted in losses as well. As per the submission of the Ministry of Finance, the monies apportioned to the reserve/separate fund are proposed to be made available to LIC for entering into new businesses (as LIC share capital in new business ventures). As investments in business ventures other than life insurance may involve the risk of incurring losses, the Committee are of the view that such investments may not be allowed, and the reserves, either fully or partially, be ploughed back into insurance business only.

D. Clause 6: Policies to be guaranteed by Central Government (Amendment of Section 37)

50. Clause 6 of the Bill seeking to amend Section 37 of the Insurance Act, 1938 (policies to be guaranteed by the Central Government) reads as follows:-

“In Section 37 of the principal Act, for the words “by the Central Government”, the words “to the extent as the Central government may, by order, from time to time, determine” shall be substituted”.

51. On the justification of the proposed amendment seeking to enable the Central Government to determine the extent of the guarantee on the policies, the Ministry of Finance (Department of Financial Services) in a written note, informed, as follows:

“Section 37 of the LIC Act, 1956 provides for Government guarantees as to payment in cash of the sum assured in the policies issued by LIC. No monetary value is assigned to the Government guarantees. In this connection, it may be pointed out that LIC has to meet the requirement of solvency margin out of the annual valuation surplus. The statutory solvency margin is formula based and government guarantee to the LIC policies does not form part of the formula. LIC is now maintaining the solvency margin as mandated by IRDA. In spite of this, it has been considered not to discontinue the government guarantee assigned to the policies issued by the LIC but to allow the Central Government to determine the extent of government guarantee from time to time”

52. Expressing apprehension on the amendment proposal seeking to limit the extent of ‘Sovereign Guarantee’, the Federation of LIC Class-I Officers’ Association, in their memorandum submitted to the Committee, stated as follows:

“The Government Guarantee is the major strength of the Corporation in creating the Trust in 250 millions of customers and any attempt to modify the same will seriously dent the performance, achievement and strength of the Corporation. LIC is the only Financial Institution in the country which is able to sustain ever increasing confidence of the customers and any attempt to modify the guarantee partially or fully will result in the fall of long term insurance premium savings and will have an indirect bearing on the support extended by LIC to the 5-Year Plans of the Government”.

53. Opposing the proposed amendment, the All India LIC Employees Federation, expressed their views, in a written memorandum, as under:

“Government of India is the owner of LIC and takes away 5 percent of its valuation surplus (profit) of which share taken by the Government is now around Rs. 1000 crore every year. At no time the Government was required to provide budgetary support to LIC in any form. Rather, it gets from LIC huge money for its securities and also as loans for social services like electricity, water, road transport and municipal services. As owner, the Government cannot abdicate its primary responsibility of assuring sovereign guarantee to the policyholders’ money. The Amendment implicitly and mischievously suggests that the LIC attracts business because of this sovereign guarantee while the ex- President of India Shri Abdul Kalam publicly acknowledged on the occasion of LIC’s golden jubilee that this is the only institution which has not taken money from the Government of India but given it to Government in abundance.”

54. Expressing similar views, a representative of the All India Insurance Employees Association while deposing before the Committee on 22 January, 2010 stated as follows:

“The Life Insurance Corporation has never invoked the sovereign guarantee in the last 54 years. It has got a strong fundamental to meet the claims of the policy holders and perhaps, I am very proud to say the record of LIC in settlement of claim is the best in the world. Even in the death claim, 98.6 per cent of the claims were settled by the LIC...we feel that the recommendation of the IRDA is based on the feelings of the private sector. Now, sovereign guarantee for LIC has to be there for many other things because LIC has to do certain social obligations, certain constitutional obligations which the private sector is not expected to do.”

55. Explaining the rationale behind the amendment proposal, the Secretary, Department of Financial Services, however, stated as follows:

“With the infrastructure requirements, guarantee on funds are becoming so increased... There, the Central Government has to give a lot of guarantees. Now, there is a FRBM Act, under which there is a limit on the guarantee which you can give. If you want to look at a growth of 8 per cent, 9 per cent, and 10 per cent, for which you need additional funds, for which the public sector has to play a leading role, for which the Government has to give a guarantee, then somewhere some guarantee has to be withdrawn a little. Government has to ensure that guarantee is available across in such a manner that it is prudentially available, it is available to ensure that institutions function effectively...I request

the Committee to look at it in this perspective that there is a reserve, there is a solvency, there is a requirement on that, there is a guarantee requirement. Guarantee is not guarantee alone for LIC, there is a guarantee across the whole spectrum of things in the Government.”

56. In response to a question on the rationale for the proposal to amend Section 37 of the LIC Act 1956, which provides sovereign guarantee to the sum assured under all the policies including bonus, if any, to the effect that limits sovereign guarantee to the extent to be determined by the Government from time to time, the Ministry of Finance (Department of Financial Services) in a written reply stated as follows:-

“Section 37 of the LIC Act, 1956 provides for guarantee of the Central Government to the payment in cash of the sum assured in the policies including bonuses issued by LIC. However, no monetary value is assigned to the Government guarantees. Government has taken a view that it will not discontinue the Government guarantee assigned to the policies including bonuses issued by LIC but will keep the flexibility of determining the extent of Government guarantee from time to time.”

57. On the likely implications of the amendment proposal pertaining to sovereign guarantee to the policies on LIC’s business, the Ministry of Finance (Department of Financial Services), in a written note, stated as follows:-

“The Corporation is adequately solvent at this moment and also enjoys a great amount of goodwill and brand recognition across the country. It has created a very strong network of over 3000 offices all over the country and a solid distribution base with over 12 lakh agents in its fold. There has been no occasion wherein Section 37 had to be invoked by the Central Government. In view of the above strengths it is unlikely that its business prospects would be impacted by the amendment.”

58. Questioned on the possible effect of reduction in sovereign guarantee on the business of LIC, the Chairman, LIC stated as follows:

“Sir, any Government guarantee is most welcome for our organization. If there is any deviation, naturally we will have to counter it by some other method. Today, we are saying it is Government guaranteed.”

59. In response to a query as to whether these provisions were, in a way, the first step towards gradually reducing and doing away with the sovereign guarantee to

the policies of the LIC over a period of time, the Ministry of Finance (Department of Financial Services), stated as follows:-

“The amendment, as can be seen, is not an attempt to do away with the sovereign guarantee.”

60. The Committee find no merit in the demand of the private sector insurance players for reducing or doing away with the sovereign guarantee on LIC's policies. As a Government run Corporation LIC has been, and is expected to continue to play a prominent role inter-alia in meeting social sector obligations. As per the submission of the Ministry of Finance the Government guarantee assigned to the policies including bonuses issued by LIC will not be discontinued, and only flexibility is being sought in determining the extent of Central Government guarantees from time to time. The Committee are of the view that the very proposal seeking flexibility through the amendment indicates that over a period of time in future the Government intends to dilute the 100 per cent Government guarantee in a phased manner without the approval of the Parliament by simply issuing a notification in this regard. As sovereign guarantee is key to LIC's pre-eminent position in life insurance business, the Committee are of the considered view that this stature bestowed on LIC by Parliament should not be diluted in any manner under the pretext of providing a level playing field in the insurance sector. At this juncture of the development of our country, rather than dis-incentivising the future growth and prospects of LIC, the Government must re-order its priorities by incentivising LIC to mobilise more resources for developmental activities, particularly in the crucial infrastructure sector.

61. In this regard, the Committee also do not find to be acceptable, the rationale extended by the Secretary, Department of Financial Services in support of the amendment proposal which centers on the argument that the Government can not continue to stand guarantee to heads such as LIC policies in view of the wide spectrum of sectors for raising the growth rate of the economy where sovereign guarantee would be required. The Committee are of the view that the

strength of the sovereign guarantee is actually derived from the strength of the economy. Any move that is likely to have the negative impact of weakening LIC will certainly have an adverse impact on the economy as LIC has been known to be one of the institutions engaged in mobilisation of peoples savings on a vast and massive scale.

62. As any dilution/phase out of the Government guarantee is likely to adversely affect the business, profitability and brand image of LIC owing to likely loss of investor confidence and the consequent reduction in the funds collected by the Corporation, the Committee recommend that the proposed amendment on the issue be withdrawn. The Committee also emphasise on ensuring that LIC endeavours to create more attractive schemes with increased share to policyholders so as to enable the Corporation to play a greater role in economic enrichment of the masses while maintaining its position as a leading player in the market.

E. Clauses 8 and 9: Power to make rules and regulations (Amendment of Section 48 and 49)

63. Section 48 of the LIC Act, 1956 entrusts with the Central Government, the power to make rules with regard to terms and conditions of service of the employees and agents of the Corporation. Section 49(2)(b) of the LIC Act, 1956 empowers LIC to make regulations regarding method of recruitment and conditions of service of the employees and agents of the Corporation.

64. The amendments proposed to section 48 and 49 of the Act vide Clauses 8 and 9 of the Bill are as follows:

Clause 8. In Section 48 of the principal Act, in sub-section (2), in clause (cc), the words “and agents” at both places where they occur, shall be omitted.

Clause 9. In section 49 of the principal Act, in sub-section (2);

(i) for clause (b), the following clause shall be substituted, namely:

“(b) the method of recruitment of employees and agents of the Corporation and the terms and conditions of the agents.

(ii) clause (j) shall be omitted”.

65. On the rationale of proposing the amendments to Section 48 and 49 of the LIC Act, the Background note furnished by the Ministry of Finance (Department of Financial Services) states as follows:

“Section 48 of the Life Insurance Corporation Act, 1956 empowers the Central Government to make rules to carry out the purpose of this Act. Clause (cc) of sub section (2) of section 48 provides for framing of rules with regard to the terms and conditions of service of employees and agents of the LIC. However, the Insurance Laws (Amendment) Bill, 2008 proposes to entrust the responsibility of appointing agents to the insurers with checks and balances and enable IRDA to regulate the appointments by way of detailed regulations. Accordingly the power to make rules by the Central Government in respect of agents is taken away and assigned to the LIC by deleting the words “and agents” occurring Section 48, (2) (cc).

Accordingly necessary changes have been proposed in Section 48 of the LIC Act, 1956.

Section 49 of the LIC Act, 1956 empowers the LIC to make regulations. Insurance Laws (Amendment) Bill, 2008 proposes to entrust the responsibility of appointing agents to the insurers with checks and balances by way of regulations. The proposed amendment of clause (b) of section 49 provides for entrusting the LIC with the power to make regulations in respect of the terms and conditions of agents.”

66. On the proposed amendment, the IRDA, in their written submission, have expressed their views as follows:

“Under the existing provision, the Life Insurance Corporation is empowered to determine all the terms and conditions of the service of the employees and agents. The amendment proposes to delete the word agents. As a result of this amendment the status of the agents in the LIC will be the same as that of the agents in any other insurance company which are governed by the Agents’ Regulations of the IRDA.

....the responsibility of issuing and renewal of Agents’ licenses is proposed to be assigned to the insurers with checks and balances and enabling the authority to regulate the licensing procedure by way of detailed regulations. To avoid any possible conflict between the Regulations of LIC and IRDA, section 49(2)(j) of LIC Act, 1956 may be deleted.”

67. During their evidence before the Committee on 22 January, 2010, a representative of the Life Insurance Agents Federation of India however submitted that there should be no change in the existing Section 48 and 49, as proposed vide Clause 8 and 9 of the Bill as this will take away the statutory protection available at present. He further stated:

“Let it remain with the Act itself; it should not be amended. The suggestion is that the insurance agents should be recognised and it should be developed as a career because it can be a channel for the unemployed people. A lot of people can come because they are not protected by any law.”

68. Expressing similar concern, the National Federation of Insurance Field Workers of India, in their written submission stated as below:

“The amendment to Section 48 and 49 of the LIC of India Act, 1956 will take away the security of agents and redressal at government level available now. This will affect 13 lakh agency force of LIC.”

69. In this regard, the Life Insurance Council, in their memorandum on the Bill submitted as follows:-

“Clause (b) of sub-section (2) of Section 49 is amended to include “and the terms and conditions of Agents”. The Authority of the Central Government to make Rules has been removed and power vested in Corporation to make Regulations with the approval of Central Government. IRDA has issued regulations on licensing of agents and corporate agents which covers the entire population of agents including LIC. Thus there could be two sets of regulations

one issued by IRDA which would apply to all agents in India and one set issued by LIC which would apply to LIC agents only. The power should vest in IRDA only and LIC could issue internal rules as any management would do”.

70. According to Shri N. Rangachari, former Chairman, IRDA, the amendment proposal seems to run counter to the proposed amendment to Section 48. In terms of the amendments proposed to Section 48 under Clause 8 of the Bill, the power to make rules by the Central Government in respect of agents is to be taken away by deleting the words “and agents” occurring in Section 48 (2)(cc). As submitted in the Memorandum furnished by Shri N. Rangachari, “if LIC is to act as any other life insurer, it should be in a position to follow the regulations made by the IRDA for the recruitment of agents and their control and guidance. A separate power granted to the LIC to make its own regulations in regard to the appointment of agents would be counter to the regulatory procedure of the IRDA and may not be welcome”.

71. One of the private sector companies operating in the life insurance business, Tata AIG, in their Memorandum submitted on the Bill, opined as follows:-

“The regulations related to agents have to be common for all insurers including the Corporation. Under proposed section 48, the agent has been omitted rightly; however the same has not been deleted from Section 49 (b). In case intention is to cover the existing agents, the same needs to be clarified”.

72. The amendment to Section 48 under Clause 8 is intended to do away with the existing system of the Central Government framing the rules with regard to the terms and conditions of service of agents of the LIC. And, the amendment to Section 49 under Clause 9 is intended to empower the LIC to frame regulations in regard to recruitment and terms and conditions of service of the agents. As per the submission of the Ministry of Finance (Department of Financial Services), the licensing and regulation of the service conditions of the entire population of agents would be under the purview of the IRDA. The Committee observe in this regard that the LIC agents in particular are a large self employed group who have been instrumental in propagating the importance of life insurance as a means of social security, and not mainly as an investment option with high risks attached. The Committee are, therefore, of the view that it would be preferable to continue with the existing legal provisions relating to the terms and conditions of service of LIC agents. In this context, the Committee desire that LIC should pay greater attention to professional training of agents so that they are better equipped to pursue insurance-promotion as a career option in a competitive environment.

New Delhi;
10 March, 2010
19 Phalguna, 1931 (Saka)

Dr. MURLI MANOHAR JOSHI
Chairman
Standing Committee on Finance

Minutes of the Twelfth sitting of the Standing Committee on Finance

The Committee sat on Friday, the 22nd January, 2010 from 1130 hrs. to 1430 hrs.

PRESENT

Dr. Murli Manohar Joshi - Chairman

MEMBERS

LOK SABHA

2. Dr. Baliram
3. Shri C.M. Chang
4. Shri Harishchandra Chavan
5. Shri Gurudas Dasgupta
6. Shri Nishikant Dubey
7. Shri Bhartruhari Mahtab
8. Shri Mangani Lal Mandal
9. Shri N. Dharam Singh

RAJYA SABHA

10. Shri Raashid Alvi
11. Shri S.S. Ahluwalia
12. Shri Moinul Hassan
13. Dr. Mahendra Prasad

SECRETARIAT

- | | | |
|-----------------------------|---|----------------------|
| 1. Shri R.C. Ahuja | - | Additional Secretary |
| 2. Shri A.K. Singh | - | Joint Secretary |
| 3. Shri T.G. Chandrasekhar | - | Additional Director |
| 4. Shri R.K. Suryanarayanan | - | Deputy Secretary |
| 5. Smt. B. Visala | - | Deputy Secretary |

Part – I

(1130 to 1330 hours)

WITNESSES

Ministry of Finance (Department of Financial Services)

1. Shri R. Gopalan, Secretary
2. Shri G.C. Chaturvedi, Additional Secretary
3. Shri Tarun Bajaj, Joint Secretary (Insurance & Pension)
4. Shri Lalit Kumar, Director (Insurance)

Life Insurance Corporation of India (LIC)

Shri T.S. Vijayan, Chairman

Insurance Regulatory Development Authority (IRDA)

1. Shri J. Hari Narayan, Chairman
2. Shri G. Prabhakara, Member (Life)
3. Ms. Babita Rayudu, OSD (Legal)

The Committee heard the representatives of the Ministry of Finance (Department of Financial Services), Insurance Regulatory and Development Authority (IRDA) and the Life Insurance Corporation of India (LIC) on the provisions of the Life Insurance Corporation (Amendment) Bill, 2009. Major issues discussed related to, investment and profit earned by the Government of India from LIC, investment policy of LIC, implications of the amendment proposals to, enhance the paid up equity capital of LIC from Rs. 5 crore to Rs. 100 crore and enabling for further enhancement of the capital of the corporation by notification, reduction in the distributable surplus payable to policyholders and shareholders, doing away with the sovereign guarantee on the policies subscribed, rural and social sector obligations of insurance companies, branch expansion of LIC etc. The Chairman asked the representatives to furnish written replies to the points raised by Members within a week.

The witnesses then withdrew.

Part – II
(1350 to 1430 hours)

WITNESSES

All India Insurance Employees Association

1. Shri Amanulla Khan, President
2. Shri K. Venu Gopal, General Secretary

Life Insurance Agents Federation of India

1. Shri H.M. Jain, President
2. Shri N. Gajapathi Rao, Secretary General
3. Shri Prem Singhal, Vice President
4. Shri Ranbir Sharma, Zonal President
5. Shri Avdesh Singh, Zonal Secretary

The Committee heard the views of the representatives of All India Insurance Employees Association and the Life Insurance Agents Federation of India on the

various provisions of the Life Insurance Corporation (Amendment) Bill, 2009. Major issues discussed included, functional autonomy for LIC, proposal to omit Section 44 of the Life Insurance Corporation Act, 1956 relating to non applicability of Act in certain cases, policy measures for development of the profession of insurance agents, flaws in the existing system of training of agents prescribed by IRDA etc. The Chairman asked the representatives to furnish written replies to the points raised by Members within a week.

The witnesses then withdrew.

A verbatim record of the proceedings was kept.

Minutes of the Fourteenth sitting of the Standing Committee on Finance

The Committee sat on Wednesday, the 10th March, 2010 from 1530 hrs. to 1600 hrs.

PRESENT

Dr. Murli Manohar Joshi - Chairman

MEMBERS

LOK SABHA

2. Shri C.M. Chang
3. Shri Harischandra Chavan
4. Shri Bhakta Charan Das
5. Shri Khagen Das
6. Shri Bhartruhari Mahtab
7. Shri G.M. Siddeshwara
8. Shri M. Sreenivasulu Reddy
9. Shri Y.S. Jagan Mohan Reddy
10. Shri N. Dharam Singh

RAJYA SABHA

10. Shri Vijay Jawaharlal Darda
11. Shri S.S. Ahluwalia
12. Shri Moinul Hassan
13. Dr. Mahendra Prasad
14. Shri Y.P. Trivedi
15. Shri Rajeev Chandrasekhar

SECRETARIAT

- | | | |
|-----------------------------|---|---------------------|
| 1. Shri A.K. Singh | - | Joint Secretary |
| 2. Shri T.G. Chandrasekhar | - | Additional Director |
| 3. Shri R.K. Suryanarayanan | - | Deputy Secretary |
| 4. Smt. B. Visala | - | Deputy Secretary |

2. The Committee took up the following draft Reports for consideration:-

- (i) Draft Report on the Life Insurance Corporation (Amendment) Bill, 2009;
- (ii) Draft Report on the Indian Trusts (Amendment) Bill, 2009;
- (iii) Draft Report on the Securities and Exchange Board of India (Amendment) Bill, 2009;
- (iv) Draft Report on action taken by the Government on the recommendations contained in 78th Report (14th Lok Sabha) on "Flow of Credit to Agriculture Sector"; and

- (v) Draft Report on action taken by the Government on the recommendations contained in 79th Report (14th Lok Sabha) on “Counterfeit Currency Notes in Circulation”

3. The Committee adopted the draft reports at (i), (ii) and (iv) above without any amendment and authorized the Chairman to present the reports to Parliament.

4.	XX	XX	XX	XX
	XX	XX	XX	XX

The Committee adjourned at 1600 hours.