

**COMMITTEE ON SUBORDINATE LEGISLATION**

**(2020-2021)**

**(SEVENTEENTH LOK SABHA)**

**FOURTEENTH REPORT**

**ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS / RECOMMENDATIONS CONTAINED IN THE SIXTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTEENTH LOK SABHA) ON "THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (ASSETS, LIABILITIES AND SOLVENCY MARGIN OF GENERAL INSURANCE BUSINESS) REGULATIONS, 2016".**



सत्यमेव जयते

**LOK SABHA SECRETARIAT**

**NEW DELHI**

**August, 2021/ Sravana, 1943 (Saka)**

**COMMITTEE ON SUBORDINATE LEGISLATION**

(2020-2021)

(SEVENTEENTH LOK SABHA)

FOURTEENTH REPORT

**ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS / RECOMMENDATIONS CONTAINED IN THE SIXTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTEENTH LOK SABHA) ON "THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (ASSETS, LIABILITIES AND SOLVENCY MARGIN OF GENERAL INSURANCE BUSINESS) REGULATIONS, 2016".**

(PRESENTED TO LOK SABHA ON 05.08.2021)



सत्यमेव जयते

LOK SABHA SECRETARIAT

NEW DELHI

August, 2021/ Sravana, 1943 (Saka)

COSL No.

PRICE: Rs.

**(C) 2020 BY LOK SABHA SECRETARIAT**

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fourteenth Edition) and printed by the Manager, Government of India Press, Minto Road, New Delhi.

## CONTENTS

	Para No.	Page No.
COMPOSITION OF THE COMMITTEE.....		(iii)
INTRODUCTION.....		(v)
REPORT.....		1

### ANNEXURE

Copy of the Guidelines for framing, notification and publication of Regulations issued by the IRDAI Authority of India dated 10 <sup>th</sup> September, 2020	5
---	---

### APPENDICES

I. Statement showing the Action Taken by the Government on the Observations/Recommendations contained in the Sixth Report of the Committee on Subordinate Legislation (17 <sup>th</sup> Lok Sabha).....	9-14
II. Extracts of the Minutes of the Eighteenth Sitting (2020-2021) of the Committee (17 <sup>th</sup> Lok Sabha) held on 04.08.2021.	15-16
III. Analysis of the Action Taken by the Government on the Observation/Recommendations contained in the Sixth Report of the Committee on Subordinate Legislation (17 <sup>th</sup> Lok Sabha).	17

**COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION**  
**(17<sup>TH</sup> LOK SABHA)**  
**(2020-2021)**

Shri Vallabhaneni Balashowry

Chairperson

**MEMBERS**

- 2.. Shri Jyotirmay Singh Mahato
3. Shri Pinaki Misra
4. Shri Chandeshwar Prasad
5. Shri N.K. Premchandran
6. Shri Suresh Pujari
7. Shri A. Raja
8. Shri Nama Nageshwar Rao
9. Shri Sanjay Seth
10. Shri Mahendra Singh Solanky
11. Shri Su Thirunavukkarasar
12. Shri B. Manickam Tagore
13. Shri Ram Kripal Yadav
14. Vacant
15. Vacant

**SECRETARIAT**

- |    |                      |   |                     |
|----|----------------------|---|---------------------|
| 1. | Shri R.C.Tiwari      | - | Joint Secretary     |
| 2. | Shri T.S. Rangarajan | - | Director            |
| 3. | Smt. Jagriti Tewatia | - | Additional Director |
| 4. | Smt. Vidya Mohan     | - | Under Secretary     |

- 
1. Prof. S.P. Singh Baghel ceased to be a Member of the Committee w.e.f. 7.7.2021 due to his induction in the Union Council of Ministers.
  2. Shri Ajay Bhatt ceased to be a Member of the Committee w.e.f. 7.7.2021 due to his induction in the Union Council of Ministers.

## INTRODUCTION

I, the Chairperson, Committee on Subordinate Legislation having been authorised by the Committee to submit the Report on their behalf, present this Fourteenth Action Taken Report.

2. This Report relates to the Action Taken on the Observations/Recommendations of the Committee contained in the Sixth Report (2020-2021) (Seventeenth Lok Sabha) which was presented to Lok Sabha on 22.09.2020.

3. The Committee considered and adopted this Report at their sitting held on 4.8.2021.

4. The summary of recommendations contained in the Sixth Report and Action Taken Reply of the Government thereon have been reproduced in Appendix I of the Report.

5. The Extracts of the Minutes of the sitting of the Committee relevant to this Report are brought out in Appendix II of the Report.

6. An analysis of the action Taken by Government on the recommendations contained in the Sixth Report of the Committee (Seventeenth Lok Sabha) is given in Appendix III of the Report.

**New Delhi;**  
**04 August, 2021**  
**13 Sravana, 1942 (Saka)**

**VALLABHANENI BALASHOWRY**  
**Chairperson,**  
**Committee on Subordinate Legislation**

## REPORT

This Report of the Committee on Subordinate Legislation (2020-2021) deals with the Action Taken by the Government on the Observations/Recommendations contained in the Sixth Report (Seventeenth Lok Sabha) of the Committee which was presented to Lok Sabha on 22.09.2020. The Sixth Report dealt with the Rules pertaining to "the Insurance Regulatory and Development Authority of India (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016".

2. The shortcomings observed in the above Regulations and the Observations/Recommendations made by the Committee in respect of these shortcomings are contained in paras 1.3, 1.5 and 1.7 of the Sixth Report (17<sup>th</sup> Lok Sabha). The Report, after presentation was forwarded to the Ministry of Finance (Department of Financial Services) for implementation of the recommendations contained therein. The Ministry of Finance (Department of Financial Services) furnished their action taken replies in respect of all the three Observations/Recommendations contained in the Report.

3. The main Observations/Recommendations made by the Committee in its Sixth Report (17<sup>th</sup> Lok Sabha) pertaining to "the Insurance Regulatory and Development Authority of India (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016" (Seventeenth Lok Sabha) and the action taken thereon by the Ministry of Finance (Department of Financial Services) are briefly as follows:-

### Delay in Publication of Regulations:

4. The above Regulations which ought to have been notified in the Extraordinary Gazette on the same day viz the date of the notification i.e. 07.04.2016, were published on 09.05.2016 thereby causing a delay of one month. The matters which are certified to be fit for publication in the Extraordinary Gazette, are of urgent nature and such sensitive notifications or Statutory orders of utmost public importance, especially those involving financial implications, should be printed on the same day, on which it is sent for publication. The instant case related to IRDAI, involved financial implications, thus, utmost care and caution should have been taken to ensure

timely publication of the Regulations. However, it was noted that the delay of one month had been caused by IRDAI merely to pay the difference of the enhanced amount of the rates revised for publication of Advertisements/Notices in the Gazette of India, by them. The Committee, therefore, urged the Ministry of Finance (Department of Financial Services) to keep themselves and all the concerned Departments abreast of the updates and the procedures of handling of important notifications and streamline the same so that such lapses do not recur in future. The Ministry of Finance (Department of Financial Services) in their Action Taken Reply informed that IRDAI has been advised that the rates chargeable and other procedural details for publication of their Regulations in the Gazette may be ascertained from the Department of Publication well in advance before these are sent for publishing so as to avoid delay in publication.

**Incorporation of Mode of Communication of recording of reasons in writing in the Regulations**

5. In the Regulation 9 of the above Regulations provision for the Authority to ask the appointed Actuary to make a personal visit to the office of the Authority to elicit further information if considered necessary and expedient by the Authority has been made. However, it was observed that the Regulation did not elaborate the circumstances under which the appointed Actuary could be asked to make a personal visit to the Office of the Authority, enforcement process of the same statutory status of such visits and absence of provision of recording of reasons in writing before asking the Actuary to appear in person before the Authority. The Committee, therefore, desired that the Ministry may incorporate in the Regulation for the sake of clarity and transparency that, the Appointed Actuary will be intimated well in advance by sending an email from officer not below the rank of DGM about the reasons, while asking him for his personal visit to the Authority. The Ministry of Finance (Department of Financial Services) in their Action Taken Reply informed that, in exercise of Powers conferred under Regulations 11 of the said Regulations, the Authority will be initiating the process of issuing following clarification to the Regulations 9 of the IRDAI (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016) as advised by the Committee : The Appointed Actuary will be intimated well in advance by sending a communication from an

officer not below the rank of DGM about the reasons for seeking his personal visit to the Authority.

### **Giving the Retrospective effect to the regulations**

6. The Committee had noted that the above Regulations dated 7<sup>th</sup> April, 2016 had been brought into force retrospectively i.e. from 1st April 2016 and the same was not accompanied with the usual 'Explanatory Memorandum' stating there in the reasons for such retrospection and also to certify that no one would be adversely affected thereby. The Committee had therefore, recommended that an 'Explanatory Memorandum' may be appended to the Regulations. The Ministry of Finance (Department of Financial Services) in their Action Taken Reply informed that the purpose envisaged by making the said Regulations retrospective in effect has been fulfilled as all the insurers have considered their Asset, Liability & Solvency Margin from 1<sup>st</sup> April, 2016. Thus, insurance of 'Explanatory Memorandum' at this juncture, may be dispensed for Asset, Liability & Solvency Margin Regulations. However, taking cognizance of Committees recommendations, the Authority has issued Guidelines on framing, notification and publication of Regulations dated 10<sup>th</sup> September, 2020.

7. The Committee are satisfied to note that the Ministry of Finance (Department of Financial Services) have resolved to rectify the shortcomings pointed to them. The Ministry has submitted that IRDAI has taken necessary steps to minimize the time gap between approval and notification of the Regulations (Para 1.3), agreed to initiate the process of issuing the Clarification to the Regulation 9 of the Insurance Regulatory and Development Authority of India (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016 as desired by the Committee by incorporating in the Regulation that, the Appointed Actuary will be intimated well in advance by sending a communication from an officer not below the rank of DGM about the reasons for seeking his personal visit to the Authority (Para 1.5) and has also issued Guidelines on framing,

notification and publication of Regulations dated 10<sup>th</sup> September, 2020 for taking cognizance of Recommendations of the Committee (Para 1.7)

8. The Committee would, therefore, like the Ministry to expedite the process and incorporate the clarification as resolved under Regulation 9 of the Regulations and notify the amended Regulation without delay. A statement showing the Action Taken by the Government on the Recommendations contained in the Sixth Report (17<sup>th</sup> Lok Sabha) is given in Appendix-I.

New Delhi;  
04 August, 2021  
13 Sravana, 1943 (Saka)

VALLABHANENI BALASHOWRY  
Chairperson,  
Committee on Subordinate Legislation



IRDAI/Legal/Juris/Misc./008

10.09.2020

**Guidelines for framing, notification and publication of Regulations issued by the Authority:**

**Introduction:**

IRDAI is empowered to frame Regulations on various matters specified under the Insurance Act, 1938 and IRDA Act, 1999. In this regard, in line with the recommendations of Financial Sector Legislative Reforms Commission, Authority has issued a concept note on framing of Regulations vide circular dated 27.09.2016 providing a Mechanism for Framing, Consultation and Issuing of Regulations.

In addition to the concept note issued by the Authority, these Guidelines are framed taking in account the various recommendations of the Parliamentary Committee on Subordinate Legislations to be complied with by all departments of the Authority while framing new regulations or amendment regulations.

**Objective:**

The objective of these Guidelines is to streamline the procedure for framing, notification and publication of Regulations issued by the Authority in line with the recommendations of the Parliamentary Committee on Subordinate Legislations. These Guidelines are broadly classified into two chapter namely -

- i. Framing of Regulations;
- ii. Notification and Publication

**Chapter I  
Framing of Regulations**

**A. Objective clause**

Every regulation be it fresh regulations or amendment regulations shall have an objective clause specifying the objective intended to be achieved while framing the regulations. The objective clause shall address the following:

- i. What the regulatory objectives are;
- ii. What legal provision(s) empower/obligate the Authority to pursue those objectives;
- iii. How the regulations will help the Authority in achieving the stated objective; and
- iv. The context in which the regulation is proposed.

## B. Commencement clause

Every regulation shall have a specific commencement clause indicating the date of coming into force of the regulations. Regulations normally have prospective operations. Where regulations are to have effect retrospectively, an explanatory memorandum has to be added in the form of a note explaining the reasons for such retrospective application and with a caveat confirming that no one is adversely affected by such retrospective effect;

## C. In case of amendment regulations,

a. the Short title shall be in the following format:

i. In case of first amendment in a particular reference year,

*<Principal regulations> (amendment) Regulations, <year>*

ii. In case of subsequent amendments in the particular reference year, the nomenclature format shall be:

*<Principal regulation> (nth amendment) Regulations, <year>*

Where n denotes the number of amendments carried out in that particular year

b. In case of issuance of amendments to existing regulations, the preamble clause shall contain the details of the principal regulations including the *title* and the *year*. Footnote indicating the gazette references of the principal regulations and subsequent amending regulations shall be appended to the amendment regulations.

c. Where amendment regulations are to have effect retrospectively, an explanatory memorandum has to be added in the form of a note explaining the reasons for such retrospective application and with a caveat confirming that no one is adversely affected by such retrospective effect;

d. In case of amendment regulations, after the signature portion, a note shall be added providing details of the principal regulations and all subsequent amendments notified to the principal regulations. A specimen of the note is given below:

*Note: The principal regulations were published in the Gazette of India, Extraordinary, Part-III, Section 4, vide no.... dated ..... and were subsequently amended vide ....., dated .....*

D. In case of issuance of fresh regulations superseding earlier issued regulations, the following points shall be considered:

i. Regulation numbering

It shall be endeavored to retain same regulation numbers while issuing fresh regulations repealing earlier regulations. Churning of regulation numbers have the

effect of erasing history and precedents surrounding that regulation. This would avoid possible future ambiguities.

Explanation: For example, if Regulation 9 of Insurance Brokers' Regulation is for renewal application, it should continue to be so even in the fresh Regulation superseding earlier regulations.

In case it is difficult to retain same regulation numbers, the concerned department shall prepare a tabulated chart containing the earlier provisions in the old regulations which corresponds to the extant provisions in the new regulations.

#### ii. Repeal and Savings clause

There shall be an express clause in the regulations which specifically repeal the earlier regulations issued by the Authority. Also, an appropriate Savings clause shall be incorporated to limit the scope of repeal of prior regulations.

#### E. Delegation of Powers

The department shall ensure that powers vested with the Authority under the Regulations are delegated appropriately, at the earliest, after issuance of the Regulations.

F: In addition to the above the following aspects should also be taken into consideration while framing Regulations:

(i) Regulations should not exceed the scope of the parent law.

(ii) Power of judicial review should not be curtailed by Regulations.

(iii) As far as possible, the use of complicated language in the Regulations should be avoided. Regulations should be specific and definite. The use of vague expressions (*like unreasonable delay, reasonable period*) which may be interpreted differently by different persons, is to be avoided.

(iv) Whenever Regulations are framed, a Statement of Objects and Reasons and also explanatory notes on the Regulations should also be appended thereto. When new Regulations amending the original Regulations, the relevant extracts of the original Regulations sought to be amended should also be attached to amending Regulations.

(v) Substantial matters should, more appropriately, be dealt within the Regulations itself and not in Guidelines or Circulars. Illustrative Substantial matters *inter alia* include annual fee to be paid by insurer, capital requirement for intermediaries, manner of receipt of premium, qualifications and code of conduct.

(vi) No charges should be levied unless there is an express authorisation therefor in the parent law.

(vii) Regulations should conform to the principles of natural justice. Conferring the right of being heard to the party adversely affected by a decision of the Authority, recording in writing the reasons for such decision, and communicating the same to the party concerned are the basic requirements of natural justice.

(viii) Relaxation/Exemption from the applicability of Regulation should be with respect to a class or category of persons and not to an individual, so as to obviate the possibility of discrimination among persons similarly placed.

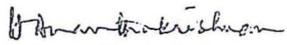
(ix) In cases where the regulations are published in draft form for inviting comments/suggestions from the public, those should be finalised and notified in final form within a period of 3 months after the receipt of comments/suggestion.

(x) The statutory provisions should not be copied into the Regulations. [For example the penalty provisions]

## Chapter II Notification and Publication of Regulations

- A. Regulations shall be framed within a period of six months from the date on which the relevant provision of the statute came into force. In case the Authority is unable to frame the regulations within the prescribed period of six months, an extension of time shall be sought from the Committee on Subordinate Legislation stating reasons for such extension; such extension being not more than for a period of three months at a time. The request should be made after obtaining the approval of the Chairman.
- B. Every regulation framed shall be sent for publication in the official gazette within a period of 15 days from the date of approval of the regulations by the Authority. Corporate Services department shall also ensure that the regulations are published in the Extra Ordinary Gazette on the same day or the very next day on which the regulations are sent for publications. It should be also ensured that these Regulations are promptly sent to Government for laying the regulations before the Parliament. The matter should be followed up with the Government so as to avoid any delay in laying the Regulation before the Parliament.
- C. The concerned department should ascertain the cost of per page publication prior to sending the regulations for publications.

This is issued with the approval of the Competent Authority.

  
H. Ananthakrishnan  
CGM (Legal) 10/09/2020

## APPENDIX I

(Vide Para 4 of the Introduction of the Report)

**STATEMENT SHOWING THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/RECOMMENDATIONS CONTAINED IN THE SIXTH REPORT OF THE COMMITTEE (17<sup>th</sup> LOK SABHA) ON "THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (ASSETS, LIABILITIES AND SOLVENCY MARGIN OF GENERAL INSURANCE BUSINESS) REGULATIONS, 2016".**

**The Insurance Regulatory and Development Authority of India (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016.**

**Observations/ Recommendations of the Committee**

The Committee note that Insurance Regulatory and Development Authority of India (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016 which ought to have been notified in the Extraordinary Gazette on the same day viz the date of the notification i.e. 07.04.2016, but were finally published on 09.05.2016 thereby causing a delay of one month. The Committee further note that the matters which are certified to be fit for publication in the Extraordinary Gazette, which is a time bound publication, are of urgent nature and such sensitive notifications or Statutory orders of utmost public importance, especially those involving financial implications, should be printed on the same day, on which it is sent for publication. The instant case is related to IRDAI, which involves financial implications. Thus, utmost care and caution should have been taken to ensure timely publication of the Regulations. The Committee however, note with concern that the Ministry of Finance (Department of Financial Services) who should have taken note of this lapse have simply forwarded the clarifications as furnished to them by the IRDAI, which reflects the casual approach of the Ministry towards final publication of the important legislation. The Committee further note that the delay of one month has been caused by IRDAI merely to pay the difference of the enhanced amount of the rates revised for publication of Advertisements/Notices in the Gazette of India, by them. The Committee, therefore, I to strongly deplore the casual approach and lack of awareness in matters of publication of

statutory orders, that too of urgent nature, which could have been avoided had the Ministry been more vigilant and prompt in circulation of information pertaining to revision of rates for publication of notifications to all the Departments/agencies etc. under their administrative control. The Committee perceive that there is no structured monitoring mechanism existing in the Ministry to follow-up such matters. The Committee are of the firm opinion that the Ministry cannot absolve themselves from their responsibility of getting timely publication of the Regulations. The Committee therefore, urge the Ministry of Finance (Department of Financial Services) to keep themselves and all the concerned Departments abreast of the updates and the procedures of handling of important notifications and streamline the same so that such lapses do not recur in future.

**(Para 1.3 of the Report)**

#### **REPLY OF THE MINISTRY**

Department of Financial Services, Ministry of Finance vide letter dated 12.11.2020 has advised IRDAI that the rates chargeable and other procedural details for publication of their Regulations in the Gazette may be ascertained from the Department of Publication well in advance before these are sent for publishing so as to avoid delay in publication.

IRDAI has informed that they have taken necessary steps to minimize the time gap between dated of approval of the Regulations by the Authority and notification of the Regulations in the official gazette. Regular follow up is being done with Department of Publication for notifying the Regulations without delay.

**(Ministry of Finance, Department of Financial Services)**

**OM no. H-12013/04/2019-Ins.I/Ins.II**

**Dated 23<sup>rd</sup> December, 2020**

#### **Observations/ Recommendations of the Committee**

The Committee note that Regulation 9 of the Insurance Regulatory and Development Authority of India (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016 makes provision for the Authority to ask the appointed Actuary to make a personal visit to the office of the Authority to elicit further information if considered necessary

and expedient by the Authority. The Committee observe that the Regulation does not elaborate the circumstances under which the appointed Actuary can be asked to make a personal visit to the Office of the Authority enforcement process of the same and the statutory status of such visits and absence of provision of recording of reasons in writing before asking the Actuary to appear in person before the Authority. The Ministry of Finance (Department of Financial Services) who were asked to clarify the issues have clarified that, the spirit of the Regulation is to expedite the off-site examination process of the valuation returns and bridge the gaps between the Appointed Actuary and the reviewer at the office of IRDAI in understanding complex areas of the returns and in the last three years it has been observed that the examination process was concluded expeditiously and in a time bound manner with this process. The Ministry also submitted that, the specific circumstances under which the Appointed Actuary can be asked to visit the Office of the Authority cannot be envisaged in advance. Thus the Regulation uses the words 'expedient' and 'to elicit' from such person any further information, ' which reveals that the spirit of the Regulations is to expedite the review of return process and receiving further information in lieu of sending to and fro queries for understanding various technical part of the valuation returns. The objective is not for charging Appointed Actuary for any violation. The extant Regulation is part of reviewing returns hence no enforcement process was incorporated. However, administrative procedures as per the internal rules are duly followed. The Committee also note that, before asking an appointed Actuary to appear in person a written communication is usually sent through e-mail from the Officer not below the rank of Deputy General Manager. The subject matter and persons to accompany Appointed Actuary are also specified in the email. The agenda of the meeting and the initial observations of valuation report on which the discussion would take place are also communicated in advance.

The Committee while agreeing with Ministry's submissions are of the view that since the IRDAI is following the administrative procedure as per the internal rules and is communicating through e-mail to the Appointed Actuary the agenda of the meeting and the initial observations of valuation report on which the discussion would take place etc. in advance, the same can be incorporated in Regulation 9 for the sake of clarity and transparency. The Committee are of

the opinion that by doing so, it won't jeopardize the administrative flexibility and evolution based on the changing requirements, as being claimed by the Ministry in their reply. Rather, this would make the rules more transparent and self contained which would leave no scope of the same being interpreted differently by different persons and causing any undue harassment to the Appointed Actuary by making him visit Authority for petty issues which can be resolved otherwise by using other means of communications. The Committee therefore, desire that the Ministry may incorporate in the Regulation for the sake of clarity and transparency that, the Appointed Actuary will be intimated well in advance by sending an email from officer not below the rank of DGM about the reasons, while asking him for his personal visit to the Authority.

**(Para 1.5 of the Report)**

#### **REPLY OF THE MINISTRY**

IRDAI has informed that Regulation 11 of the IRDAI (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016 empowers the Chairperson of the Authority to issue appropriate clarifications or guidelines as deemed necessary in order to remove any doubts or he difficulties that may arise in the application or interpretation of any of the provisions of the Regulations.

In exercise of the said power under the said Regulations, the Authority will be initiating the process of issuing the following clarification to the Regulation 9 of the IRDAI (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016, as advised by the Committee: *The appointed Actuary will be intimated will in advance by sending a communication from an officer not below the rank of DGM about the reasons for seeking his personal visit to the Authority.*

**(Ministry of Finance, Department of Financial Services)  
OM no. H-12013/04/2019-Ins.I/Ins.II  
Dated 23<sup>rd</sup> December, 2020**

#### **Observations/ Recommendations of the Committee**

The Committee note that the Insurance Regulatory and Development Authority of India (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016 dated

07.04.2016 which has been published in Part III Section 4 of Extraordinary Gazette dated May 9, 2016 has been brought into force retrospectively i.e. from 1st April 2016 but it is not accompanied with the usual 'Explanatory Memorandum' stating there in the reasons for such retrospection and also to certify that no one would be adversely affected thereby. The Committee have time and again recommended that, all "Orders" should be published before the date of their enforcement or they should be enforced from the date of their publication. However, if any, 'Order' have to be given retrospective effect, the retrospection having otherwise legal validity, a clarification is required to be given, either by way of an explanation in the 'Orders' or in form of foot note to the relevant 'Orders' to the effect that no one will be adversely affected as a result of retrospective effect being given to such 'Orders'. Even in cases where the Government has the power to give retrospective effect to subordinate legislation, such powers, should be exercised only in unavoidable circumstances, and the rules/regulations framed thereunder should in each case be accompanied by an explanatory note or memorandum affirming that no one was likely to be adversely affected as a result of retrospective effect given thereto. The Committee desire that the recommendation made by the Committee as elaborated above, in this regard should be adhered to by the Ministry scrupulously. The Committee, therefore, recommend that an 'Explanatory Memorandum' may be appended to the Regulations, and the Committee may be apprised of the action taken in this regard.

**(Para 1.7 of the Report)**

#### **REPLY OF THE MINISTRY**

The purpose envisaged by making IRDAI (Asset, Liability and Solvency Margin of General Insurance Business) Regulations, 2016 retrospective in effect has been fulfilled as all the insurers have considered their Asset, Liability and Solvency Margin from 01.04.2016 (i.e., retrospectively from the date of notification of the regulations). As such, presently the relevance of the retrospective application of the ALSM Regulations no longer exists. Therefore, it is submitted that issuance of an Explanatory Memorandum as recommended by the Parliamentary Committee, at this juncture may not have the intended purpose, as the purpose has already been served. For these reasons, it is humbly submitted that Explanatory

Memorandum may be dispensed with for ALSM Regulations which is already in force for the past 4 years. However, the Authority taking cognizance of the recommendations of the Parliamentary Committee has issued 'Guidelines on Framing, Notification and publication of Regulations' dated 10.09.2020. Clauses B and C(C) of Chapter I of the said Guidelines mandate issuance of Explanatory Memorandum in case of Regulations made effective retrospectively. A copy of the Guidelines is appended for ready reference.

**(Ministry of Finance, Department of Financial Services)**

**OM no. H-12013/04/2019-Ins.I/Ins.II**

**Dated 23<sup>rd</sup> December, 2020**

## APPENDIX II

(Vide Para 5 of the Introduction of the Report)

### EXTRACTS FROM MINUTES OF THE EIGHTEENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2020-2021)

The Eighteenth sitting of the Committee (2020-21) was held on Wednesday, the 4<sup>th</sup> August, 2021 from 1030 to 1100 hours in Chairperson's Chamber, Room No. 209, Extension Building, Parliament House Annexe, New Delhi.

#### PRESENT

1. Shri Vallabhaneni Balashowry Chairperson

#### MEMBERS

2. Shri Suresh Pujari
3. Shri A.Raja
4. Shri Sanjay Seth
5. Shri Ram Kripal Yadav

#### SECRETARIAT

1. Shri R.C.Tiwari - Joint Secretary
2. Smt. Jagriti Tewatia - Additional Director

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. The Committee then considered the following draft Reports:-

(i) XX XX XX XX

(ii) XX XX XX XX

(iii) Draft Fourteenth Report on action taken by the Government on the Observations / Recommendations contained in the Sixth Report of the Committee On Subordinate Legislation (Seventeenth Lok Sabha) on the Insurance Regulatory and Development Authority of India (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016.

3. After deliberations, the Committee adopted the above reports without any modification. The Committee also authorized the Chairperson to present the same to the House.

The Committee then adjourned.

-----

---

XX Omitted portion of the Minutes are not relevant to this Report

### APPENDIX III

(vide Para 6 of Introduction of the Report )

**ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS / RECOMMENDATIONS CONTAINED IN THE SIXTH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTEENTH LOK SABHA) ON "THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (ASSETS, LIABILITIES AND SOLVENCY MARGIN OF GENERAL INSURANCE BUSINESS) REGULATIONS, 2016".**

I	Total No. of Observations/Recommendations	3
II	Recommendations that have been accepted by the Government [vide recommendations at Sl. Nos.1.3, 1.5 and 1.7]	3
	Percentage of total	100%
III	Recommendations which the Committee do not want to pursue in view of Government replies	NIL
	Percentage of total	0%
IV	Recommendations in respect of which replies of Government have not been accepted by the Committee	NIL
	Percentage of total	0%
V	Recommendations in respect of which final replies of Government are still awaited	NIL
	Percentage of total	0%

