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March 18, 2008

MEMORANDUM

To,
CEOs of all General Insurance Companies,

Sub: **Corporate Houses promoting insurance broking companies in addition to doing insurance business.**

The issue whether an Indian Corporate house which promoted an insurance company (Life, Non-life or both) can also have in its group an insurance broking company has been examined by the Authority in recent time. The amendments to the Insurance Act, 1938 in the year 2002 providing for licensing of Broking Companies coupled with the process of detariffication initiated since January 2007, opens up a number of opportunities for the development of insurance broking in a big way. A question arises as to whether it is harmful to any one's interests to allow the same corporate group to have a presence in both insurance services and insurance broking activity.

2. The information gathered with regard to international practice indicates that in many jurisdictions there is no prohibition with regard to the group owning insurance companies promoting broking companies. The main issue is whether there is possibility of a bias in favour of the insurance companies in the group when a broker places insurance business of his client while the broker is expected to be impartial and protect the client's interests.

3. The desirability or otherwise of permitting the corporate houses to enter insurance broking when they are already in life or non-life insurance business was considered at length by the Authority in its 52nd meeting held on 25th January, 2008. Keeping in view the international experience and practice it was decided that corporate houses can have both insurance companies and broking activity subject to certain safeguards. It was felt that organizations with high standard of corporate governance alone may be permitted to establish/continue insurance broking companies subject to the conditions set out in the circular. These conditions shall be in addition to the conditions already specified in the Act/Regulations.

A) Obligations of the Promoter:

- (i) The promoter company should give an undertaking that none of the clients within the promoter group will be compelled to use the broker for their insurance requirements;

B) Obligations of the Insurer:

- (ii) The insurer within the group should give an undertaking that –
 - (a) it will not pay higher remuneration to the broker within the group compared to what is payable to other brokers for the same class of insurance or insurance product; an audit certificate on compliance with this undertaking should be filed annually with the audited accounts of the insurer;
 - (b) it will not quote terms to the broker within the group, that are more favourable than the terms quoted to other brokers on the same proposal for insurance; and
 - (c) it will not design special insurance products for sale exclusively through the broker.

C) Obligations of the Broker:

- (iii) The broker shall make an explicit disclosure of its being a sister company of the insurer within the same promoter group, in all its stationary used for communication with clients and in all publicity materials and at the offices of the broker.
- (iv) The broker shall make an explicit declaration in all communications relating to terms and conditions of insurance if a client requires disclosure of the remuneration receivable by the broker on the insurance effected for the client.
- (v) Where the broker recommends a product and quotes rates and terms offered by an insurer within the same promoter group, the broker shall inform the client about the logic in support of its recommendation and also inform the client about the next best product, rates and terms offered by an insurer not part of the promoter group.
- (vi) The broker shall ensure that not more than 25% of the insurances handled by it in any financial year is placed with the insurance company within the promoter group separately for life and for general insurance business. The broker shall establish internal machinery to monitor this on an ongoing basis.
- (vii) It shall be mandatory for the broking company to disclose Related Party transactions with the insurance company belonging to the promoter group in its audited accounts and balance sheet as described in the Accounting Standard 18 of ICAI.

D) Obligations of both the Insurer and the Broker

- (viii) The insurance company and the broking company shall maintain arms length distance between themselves. More explicitly, no employce or director of the broking company shall be a director, employee, or agent of the insurance company.
- (ix) The broking company shall not offer loans or other facilities or incentives to officers or employees of the insurer within the group and vice versa.

[For this purpose, "Group" shall be as defined in the IRDA Investment Regulations 2000 and Guidelines issued thereunder.]

4. The above prudential requirements are in addition to the requirements stipulated under Regulation 20 of the IRDA (Brokers Regulations) which reads as under:

"The business of the insurance broker shall be carried in such a manner that, not more than 50 percent of the premium (quantum, receipts, etc. as the case may be) in the first year of business, 40 percent of the premium in the second year of business, and 30 percent of the premium from the third year of business onwards shall emanate from any one client.

Note. - For the purposes of this regulation, the term "client" shall include, in the case of a firm or a company, an associate or a subsidiary or a group concern under the same management.

5. The decision of the Authority as to whether a company, a business or an organization is under the same management shall be final."


(Prabodh Chander)
Executive Director