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15.1 General insurance business in India is the monopoly of General Insurance Corporation of India (GIC) and its subsidiaries. Life insurance business is the monopoly of

Life Insurance Corporation of India (LIC). Exchange Control regulations governing general and life insurance business in India are set out in two separate Memoranda (GIM and LIM). This Chapter highlights the provisions which are relevant to authorised dealers.

PART A - GENERAL INSURANCE

Introduction

15A.1 Persons, firms, companies, etc. resident in India are not permitted to take general insurance of any kind with insurance companies in foreign countries without

prior approval of Reserve Bank. Besides, permission of Government of India under General Insurance Business (Nationalisation) Act, 1972, is also required in such cases. Proposals for direct insurance outside India should be submitted to Reserve Bank explaining reasons for seeking such insurance cover and producing a certificate issued by GIC or any of its subsidiaries to the effect that the proposed insurance cover cannot be obtained from them.

Marine Insurance on Exports

15A.2 GIC has been permitted to accept premiums in rupees from exporters against export of goods from India on production of certificate from them to the effect that -

(a) the insurance charges on the shipment in question have to be borne by exporter in terms of the contract with overseas buyer and that he is not making the payment on behalf of any non-resident;

or

(b) the exporter is defraying the insurance charges on the shipment in question on account of overseas buyer of the goods and that he undertakes to add the amount on the invoice and recover the payment so made from the buyer in an approved manner.

While handling shipping documents against exports contracted on f.o.b., c.& f. or any other terms under which liability on account of marine insurance on the shipment rests with overseas buyers but exporters have taken the insurance cover on non-resident party's account, authorised dealers should verify that the actual premium has been added on the invoice for being recovered from buyers.

NOTE: Certain countries operate restrictions requiring importers in their countries to obtain marine insurance cover from local insurers, settlement under which in

favour of exporters in India may not be permissible in the event of cargo getting lost before reaching the port of destination due to Exchange Control regulations governing remittances against imports into those countries. Exporters may in such cases avail of contingency marine insurance policies from GIC and its subsidiaries in order to protect their interests till the goods are paid for. Claims on such policies will be payable only to exporter in India and such policies will not be assignable to overseas buyer or any other party. In such cases, the insurance premium paid to GIC will not be recoverable from overseas buyers.

Protection against Transit Risks under f.o.b., c.& f., etc. Contracts for Exports

15A.3 Sometimes in case of exports contracted on f.o.b., c.& f., etc. terms, exporters ship cargo without verifying that the goods have been adequately insured against transit

risks by overseas buyers. Unless the cargo is insured for the entire duration of transit and insurance is available for protection of exporter until ownership in the goods passes to buyer, the exporter will be liable to suffer financial losses apart from loss of foreign exchange caused by damage/loss to the goods, except where the export is covered by an irrevocable letter of credit opened by buyer. It is, therefore, necessary for the exporter to verify even before goods are shipped out of India that they are insured against all risks of loss or damage during the entire course of transit and that such insurance is available to him by virtue of incorporation of sellers' interest clause in the policy. In cases where exporter is not assured that his interests are protected fully through insurance, he may also avail of contingency insurance cover from Indian insurers on the analogy of the provisions in the Note under paragraph 15A.2.

Marine Insurance on Imports

15A.4 GIC has been permitted to accept premiums in rupees from importers against import of goods into India on production of a certificate from them to the effect that -

(a) the insurance charges on the shipment in question have to be borne by importer in terms of the contract with the overseas seller,

and

(b) where the import is covered under an Import Licence, he undertakes to ensure that the amount of insurance premium paid will be endorsed on the import licence in due course.

Claims against Marine Insurance Policies covering Exports

15A.5 (i) GIC and its subsidiaries have been permitted to settle claims against marine insurance policies covering exports from India out of foreign currency balances held

by them, provided they are satisfied that ownership of the goods lost, damaged, etc. vests in such claimant and that the latter is not making the claim merely as agent of the real owner of the goods in India. In cases where the funds held by the insurers abroad are inadequate, claims will have to be settled by remittance from India. Authorised dealers may permit such remittances without reference to Reserve Bank, on application from insurers on form A2 together with documents listed in paragraph A.7 of Memorandum GIM after verifying that the statement of claim has been duly completed and signed by an authorised official of the insurer and that the remittance is prima facie in order. Where any document is not produced in original, an explanation for the insurer's inability to do so should be obtained. In all cases, the statement of claim (form GIM1) should be enclosed to form A2 and submitted to Reserve Bank with appropriate R Return. The other documents may be returned to the applicant insurer after marking them.

(ii) GIC and its subsidiaries may sometimes make arrangements with overseas

claims-settling agents for facilitating speedy settlement of claims relating to exports from India. In such cases, authorised dealers may on receipt of requests from GIC/its subsidiaries, open revolving letters of credit in favour of established claims-settling agents abroad providing payment against production of documentary evidence viz. statement of claim, survey report or other documentary evidence of loss/damage, original policy or certificate of insurance, etc. Reimbursement of claims under the credit may be made by authorised dealers on verification of the required documents.

(iii) Where GIC and its subsidiaries have settled claims against marine insurance

policies covering exports from India in favour of Indian exporters, authorised dealers may allow remittance of claims by Indian exporters to overseas buyers on production of documentary evidence in support of the claim, provided export proceeds have been realised in full by the exporter. A declaration from the Indian exporter that the overseas buyer has not been compensated in any other manner for the loss of/damage to goods exported from India in respect of which claim has been settled by GIC or its subsidiary, should also be obtained.

Claims against Marine Insurance Policies Covering Imports into India and Merchanting Trade

15A.6 Remittances against claims under marine insurance policies covering imports into India may be allowed by authorised dealers on verification of the certificates

regarding ownership of the goods etc. as laid down in paragraphs A.8 and A.9 of Memorandum GIM. Authorised dealers should specifically confirm on form A2 that the necessary documentary evidence has been verified and conditions laid down in paragraphs A.8 and A.9 of Memorandum GIM are fulfilled.

Premium for Extension of Insurance Cover on Imports

15A.7 Sometimes, importers may not retire documents received under letters of credit promptly and goods may meanwhile arrive at the Indian port and remain unprotected

in the docks. In cases where marine insurance has been taken abroad and normal period has expired, authorised dealers have been granted permission to have the insurance cover extended and to remit the insurance premium (See paragraph 7A.14). War etc.

Risk Insurance on Marine Hulls

15A.8 GIC is operating a scheme of comprehensive insurance on Indian marine hulls covering all risks against war and other allied risks arising out of civil commotion,

political or labour disturbances, etc. Shipowners should, therefore, normally obtain such insurance cover only in India.

Remittances to P & I Clubs and Claims Settling Agents Abroad

15A.9 (i) Remittances to any overseas Protection and Indemnity Club (P & I Club) by shipowners towards subscriptions for various kinds of protection and indemnities

require prior approval of Reserve Bank. Payment of such subscriptions by shipping companies from out of their foreign currency balances, likewise, requires prior approval of Reserve Bank.

(ii) Where Indian ships are involved in collision with foreign ships, P & I Clubs

provide guarantee for payments towards claims made by the foreign shipowners. GIC and its subsidiaries have been permitted to provide counter-guarantee to P & I Clubs in respect of 3/4th collision liability to be borne by them as insurers. Similarly, whenever any Indian ship gets involved in a casualty in the mid-sea or is grounded, the services of independent salvors are required to be engaged. GIC and its subsidiaries have been permitted to provide 100% counter-guarantee to overseas claims settling agents/brokers/ bankers in respect of salvage security provided by them without any limit. Authorised dealers may, therefore, issue the necessary guarantees/counter-guarantees on behalf of GIC and its subsidiaries and also make remittances thereagainst on the basis of claims made by the overseas parties, under intimation to Reserve Bank. A copy of the claim and other relevant documents should be enclosed with such reports.

Reinsurance

15A.10 (i) Reinsurance arrangements of GIC and its subsidiaries are reviewed annually and approved by the GIC Board. Remittances falling due under approved reinsurance

arrangements may be made by authorised dealers designated by GIC in accordance with the terms and conditions laid down by the GIC Board. A copy of the application received from GIC and its subsidiaries giving full particulars of the remittance to be made including particulars of remittances already made for the year in question should be forwarded to Reserve Bank alongwith form A 2. Authorised dealers should also specifically confirm on form A 2 that the relative documentary evidence in original has been verified by them.

(ii) Applications for remittance of reinsurance premia received from local brokers of insurance companies should, however, be referred to Reserve Bank for approval.

Overseas Medical Insurance Schemes

15A.11 GIC through its four subsidiaries in India is operating the following Medical Insurance Schemes approved by Reserve Bank for the benefit of resident Indians

going abroad for certain approved purposes.

	Scheme	Risk	Covered Premium
1.	Overseas Medical Insurance Scheme for Indians Travelling Abroad for Business and other purposes (OMIS)	Expenses on services such as physician's attention, hospitalisation, physician ordered medical services, transport, etc. incurred while the traveller is abroad are covered under the scheme.	In Indian rupees
2.	Overseas Mediclaim Insurance Scheme for Employment and Studies[OMIS(E&S)]	Expenses incurred for sudden and unexpected sickness or accident while abroad are covered under the Scheme	In Foreign Currency

Details of the Scheme may be ascertained from GIC or its subsidiaries.

Miscellaneous Product Liability for Merchandise Exports and Errors and Omission for Computer Software Exports

15A.12 GIC and/or its subsidiaries have been permitted to issue Product Liability Insurance policies for merchandise exports and Errors and Omission Insurance

policies in respect of computer software exports in foreign currency, against receipt of premium in Indian rupees without obtaining permission of Reserve Bank and also to settle claims in foreign currency against such policies. Authorised dealers may, on receipt of specific requests from GIC and/or its subsidiaries, open letters of credit in favour of their claim settling agents abroad, providing for payments towards claims against the respective policy subject to submission of statement of claim, survey report or other documentary evidence of loss/damage, original policy or certificate of insurance etc. in support of claim.

PART B - LIFE INSURANCE

Payment of Premiums by Non-residents

15B.1 Payment of insurance premiums by policy holders resident outside India may be made by remittance in foreign currency or by payment from their Ordinary

Non-resident Rupee/Non-resident (External) Rupee/FCNR accounts with authorised dealers in India. Manner of settlement of claims on policies is dependent on the exact manner in which premium payments have been made by policy holders. Accordingly, settlement of claims in foreign currency will be allowed only in the proportion that premiums paid in foreign currency or in a manner which has resulted in accrual of foreign exchange to India [e.g. payment by debit to Non-resident (External) Rupee accounts or FCNR accounts] bear to the total premiums paid. When non-resident policy holders pay their premiums locally in rupees by debit to their Ordinary Non-Resident Rupee accounts, settlement of claims by remittance in foreign currency will not ordinarily be allowed. In order that LIC can maintain a systematic record of premium payments which would facilitate identification of the source of funds at a later date when claims have to be settled, authorised dealers should advise LIC the exact manner of premium payment and the type of account debited as and when instructions in this regard from their non-resident constituents are complied with.

Assignment of Policies

15B.2 (i) Resident policy holders are not permitted to assign rupee life insurance policies in favour of any person resident outside India without prior approval of

Reserve Bank except in favour of policy holder's non-resident wife or other dependent relative without consideration. Similarly, assignment of a rupee life insurance policy held in an Indian register by a non-resident in favour of another non-resident in a different country requires prior approval of Reserve Bank. There is, however, no objection to technical assignments by non-resident policy holders in favour of overseas banks situate in the same country for the purpose of obtaining loans etc. abroad. Transfer of any claims eventually to the assignee bank will require prior approval of Reserve Bank (See paragraph 15B.4 also).

(ii) Technical assignments of rupee life insurance policies may be freely made by

non-residents in favour of banks or LIC in India for obtaining loans, provided the loan amount is paid locally in rupees to the policy holders or their close relatives in India.

Foreign Currency Policies held by Residents

15B.3 For purposes of Section 9 and 19 of FERA 1973, life insurance policies are regarded as securities. Foreign currency life insurance policies are, therefore, foreign securities

for purpose of these provisions. Restrictions imposed on acquisition, holding and disposal of foreign securities without prior permission of Reserve Bank under Section 19(1)(e) of the Act are, therefore, applicable to foreign currency life insurance policies. Persons resident in India holding foreign currency life insurance policies should declare them to Reserve Bank and obtain licences for holding them except where they are covered under the general exemption (See Note below). Applications for obtaining licences should be made to the Central Office of Reserve Bank(Non-residents Foreign Accounts Division). While granting holding licences, Reserve Bank will stipulate that maturity proceeds or any claim amounts due on the policies should be repatriated to India through an authorised dealer.

NOTE: In terms of Reserve Bank Notification No. FERA.118/92-RB dated 7th September 1992, persons who have returned to India after being a non-resident for a minimum continuous stay of one year abroad have been granted exemption from the requirement of obtaining permission of Reserve Bank for holding any life insurance policies taken out of foreign exchange lawfully acquired by them while they were resident outside India. They would also be free to retain the maturity proceeds or any claim amounts received on such policies in their foreign currency accounts in India (RFC accounts) or abroad.

Remittance of Premiums on Foreign Currency Policies

15B.4 Persons who are permanently resident in India are not permitted to take life insurance policies with foreign insurance companies. In case of foreign currency

life insurance policies taken out from foreign insurance companies by persons while they were resident outside India and have returned to India for permanent residence, premiums due on such policies can be paid by them out of their entitlements under the Returning Indians Foreign Exchange Entitlement Scheme (RIFEE Scheme) or out of funds held in their foreign currency accounts abroad or in India (RFC accounts). Remittances from India will, however, be allowed provided

- (a) the policy had been in force for at least three years prior to policy holder's return to India;

and

- (b) an undertaking has been furnished by the policy holder to repatriate to India the maturity proceeds or any claim amounts due on the policy through an authorised dealer.

Assignment of foreign currency policies will not ordinarily be permitted by Reserve Bank. Similar regulations are applicable to foreign currency policies taken with overseas offices of LIC.

Reinsurance

15B.5 Reinsurance arrangements of LIC are reviewed annually and approved by Government of India. Remittances falling due under approved reinsurance arrangements may be

made by authorised dealers in accordance with the terms and conditions laid down by the Government of India. A copy of the application received from LIC giving particulars of the remittance to be made including particulars of remittances already made for the year in question should be forwarded to Reserve Bank along with the relative form A2. Authorised dealers should also specifically confirm on form A2 that the relative documentary evidence in original has been verified by them.