
Consultation Paper

REGISTRATION OF LOSS ADJUSTERS IN SRI LANKA

September 2014



**Insurance Board of Sri Lanka
Level 11, East Tower
World Trade Centre
Echelon Square
Colombo 1.**

CONSULTATION PAPER

PROPOSED RULES ON REGISTRATION OF LOSS ADJUSTERS IN SRI LANKA

Introduction:

The Regulation of Insurance Industry Act, No. 43 of 2000 (RII Act) was amended in 2011 to prohibit any person from acting or holding out as a loss adjuster [as defined in section 114(1)] unless registered as a loss adjuster by the Insurance Board of Sri Lanka (IBSL). There is a limited exception from the requirement to register in section 89A (2).

Under section 89B, IBSL may make rules requiring applicants to have specified qualifications and experience to be eligible to be registered as Loss Adjusters. Under section 89 C(1), IBSL may make rules specifying the documents, information, and fee that applicants for registration must provide.

Attached as an annex to this consultation paper are IBSL's proposed Loss Adjuster Registration Rules. IBSL requests the views in particular of those carrying on business as loss adjusters or performing loss adjusting functions and those contemplating doing so. IBSL also requests the views of other insurance market participants, in particular those who use or rely on the work of loss adjusters. *Are you satisfied with the way loss adjusters are performing? Do the proposed Rules adequately address important risks in this market?*

Disclaimer:

The contents of this paper do not constitute legal advice. The finalized rules determining the qualifications and experience required by a person to be registered as a Loss Adjuster may change from what is proposed herein consequent to the comments we receive, further deliberations or due to any other reason, as determined by IBSL to be appropriate.

Comments on Consultation Paper:

IBSL invites comments on this Consultation Paper.

The comments received would be subject to consideration by IBSL and may be made publicly available and will not be treated as confidential unless a special request is made in this respect. We will not accept a standard confidentiality statement in an email message as a request for non-disclosure. Please send any clearly identified confidential submissions separately, if reasonably possible, so that we may more easily keep them apart from the non-confidential submissions. Please keep in mind that IBSL may have to disregard confidential submissions that in fairness should be made available to others for further comment. For that reason, please avoid confidential submissions if possible, or keep them short.

Copies of this consultation paper are available to download from our website – www.ibsl.gov.lk/public-consultations.html. Alternatively, you can request paper copies by calling IBSL on 2396184 - 9.

Please send in your comments under the title "PROPOSED RULES ON REGISTRATION OF LOSS ADJUSTERS IN SRI LANKA" on or before 10th November 2014 by registered post or e - mail or fax to:

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1. Proposed rules:

Individuals that carry on business (or propose to carry on business) as loss adjusters will not be registered by IBSL unless they:

- (a) are at least 19 years old;
- (b) are citizens of Sri Lanka;
- (c) have one or more of the following qualifications –
 - Associate of the Chartered Institute of Loss Adjusters in the UK,
 - Associate of the Chartered Insurance Institute of the UK,
 - Associate of the Institute of Chartered Accountants of Sri Lanka, or
 - another relevant qualification approved by the Board;
- (d) are otherwise fit and proper;
- (e) have at least two years of appropriate experience in investigating and assessing losses under insurance claims;
- (f) are covered by adequate professional liability insurance with a minimum policy limit of at least Rs 10 Mn; and
- (g) are not directors, senior managers, officers, shareholders or employees of an insurer, insurance agent or broker.

Companies carrying on business as loss adjusters must be duly registered under the Companies Act, No.07 of 2007, be fit and proper, and be covered by professional liability insurance with a minimum

policy limit of at least Rs 100 Mn. Board members, and individuals investigating and assessing insurance losses while employed by or working under the direction of the company, must meet the requirements of (a) to (d) and (g) above. In assessing whether companies are fit and proper, IBSL will consider the skills and experience of senior managers, officers, and other key personnel.

The company may not be a holding, subsidiary, or associate company of an insurer, insurance agent, or broker. No shareholder, senior manager, officer, or director of the company, and no individual loss adjuster, may be a shareholder, senior manager, officer, director, employee or contractor of or to an insurer, insurance agent, or broker.

It is IBSL's view that section 89A does not apply to require registration of employees of insurers who are performing loss adjusting functions, but prospective registrants will wish to obtain their own legal advice. Employees of corporate loss adjusters are also not required to register, but the companies must ensure that employees and contractors performing loss adjuster functions meet criteria (a) to (d) and (g) of rule 2 (listed above).

IBSL will post an application form for registration on its website when the consultation period has ended. Rules 4 and 5 set out the information and documents that must accompany the application. Registration fees are set out in rules 6 and 7.

There is a transitional provision in rule 8 to give loss adjusters carrying on business on the date of coming into force of the Rules, 6 months to apply for registration.

2. Additional issues:

Agents and brokers

In other jurisdictions, insurance agents and brokers will often be performing at least some claims management functions including (perhaps) loss adjusting. IBSL has not considered granting an exemption for such entities, in whole or in part, from the Rules.

Carrying on businesses other than loss adjusting

Unless prohibited from doing so by rules, under the Act there is nothing to prevent loss adjusters from performing functions, or carrying on business, unrelated to investigating and assessing losses under insurance policies. IBSL is aware of no risks in the market that would justify limiting loss adjusters to loss adjusting business as defined.

3. Conditions to be imposed on registration:

Under section 89C(2) of the Act, IBSL may impose terms and conditions on a registration. These will vary, depending on the circumstances in each case, but IBSL is considering imposing the following condition in each case:

"After the first calendar year of registration, the loss adjuster must provide an annual report to IBSL on or before 31st March confirming compliance with the Rules during the previous year, setting out gross revenue during that year from the business of loss adjusting, and describing any business other than loss adjusting carried on."

Are there other conditions that might be appropriate?

4. Cost v. benefit:

IBSL has aimed to keep the costs of registration and ongoing compliance relatively low and in line with what we perceive to be relatively low risks in this market. We have also aimed to set fees in line with what we expect our costs of registration and supervision will be.

5. Annexure:**REGULATION OF INSURANCE INDUSTRY ACT, No. 43 OF 2000**

RULES made by the Insurance Board of Sri Lanka under Section 105 read with Sections 89B and 89 C(1) of the Regulation of Insurance Industry Act, No. 43 of 2000.

1. These Rules may be cited as the Loss Adjuster Registration Rules and come into force on the date of publication in the Gazette.
2. Without prejudice to section 89A(2) of the Act, no individual may be registered as a loss adjuster, or continue to act or hold out as a loss adjuster, unless the individual:-
 - (a) is above eighteen years of age;
 - (b) is a citizen of Sri Lanka;
 - (c) has the following qualification:-
 - (i) an Associate of the Chartered Institute of Loss Adjusters of the United Kingdom,
 - (ii) an Associate of the Chartered Insurance Institute of the United Kingdom,
 - (iii) an Associate of the Institute of Chartered Accountants of Sri Lanka, or
 - (iv) another relevant qualification approved by the Board;
 - (d) is fit and proper;
 - (e) has two years' appropriate experience in investigating and assessing losses under insurance claims;
 - (f) is covered by adequate professional liability insurance with a policy limit of at least Rs 10 Mn; and
 - (g) is not a director, senior manager, officer, shareholder or employee of an insurer, insurance agent or broker.
3. Without prejudice to section 89A(2) of the Act, no person other than an individual may be registered as a loss adjuster, or continue to act or hold out as a loss adjuster, unless:
 - (a) the person is a company duly registered under the Companies Act, No.07 of 2007;
 - (b) the person is fit and proper;
 - (c) the person is covered by adequate professional liability insurance with a policy limit of at least Rs 100 Mn;
 - (d) all individuals on the board of the person and all individuals investigating and assessing insurance losses while employed by, or working under the direction of, the person meet the requirements of rule 2 (a) to (d) and (g);

- (e) the person is not a holding or subsidiary or associate company of an insurer, insurance agent or broker; and
- (f) no shareholder, senior manager, officer or director of the person is a director, senior manager, officer, shareholder or employee of an insurer, insurance agent or broker.
4. Individuals must apply for registration as a loss adjuster in the form provided by the Board, and provide
- (a) certificates or other acceptable evidence demonstrating academic or professional qualifications, memberships, and experience;
- (b) a birth certificate;
- (c) professional liability insurance (to be effective on and from registration);
- (d) the registration fee; and
- (e) any additional information or documents as may be required by the Board.
5. Persons other than individuals must apply for registration as a loss adjuster in the form provided by the Board, and provide –
- (a) the certificate of incorporation issued by the Registrar General of Companies;
- (b) Articles of Association certified by the Registrar General of Companies;
- (c) affidavits from each director confirming and declaring that the person complies with rule 3;
- (d) professional liability insurance (to be effective on and from registration);
- (e) the registration fee; and
- (f) any additional information or documents as may be required by the Board.
6. Registration fees must be paid to the Board as follows :

Category of applicant	Amount (SLR)
	First calendar year
Individuals	75,000.00
Persons other than individuals	250,000.00

7. After the first calendar year, registration fees must be paid to the Board before the end of January each year as follows :

Category of applicant	Amount (SLR)
Individual	50,000
Persons other than individuals	100,000

8. All persons acting or holding out as a loss adjuster on the date of coming into force of these Rules ("the commencement date") must apply for registration within 6 months of the commencement date.

9. In these Rules, unless the context otherwise requires –

"Act" means the Regulation of Insurance Industry Act, No. 43 of 2000;

"Board" means the Insurance Board of Sri Lanka; and

"broker", "insurance agent", "insurer", and "loss adjuster" have the same meanings as in the Act.