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By Hand

11 Nov 2014

Ms. Damayanthi Fernando  
Director General  
Insurance Board of Sri Lanka  
Level 11, East Tower  
World Trade Centre  
Echelon square  
Colombo 01

Dear Madam,

**Re: Proposed Rules on Registration of Loss adjusters**

We refer to your letter dated 9<sup>th</sup> October 2014 addressed to our Chief Executive Officer. We are thankful for giving us the opportunity to present our views on the proposed rules on registration of loss adjusters in Sri Lanka.

After careful consideration of the proposed rules, we are pleased to present our views as follows;

**Qualifications of the Loss Adjusters**

1(a) to (g) of Proposed Rules lay down the individuals who are eligible to be registered as loss adjusters. Under Proposed Rule 1(c) the qualifications required to be registered as a loss adjuster are listed down i.e., being associate of Chartered Institute of loss adjusters, associate of Chartered Insurance Institute, associate of Institute of Chartered Accountants and another relevant qualification approved by the Board.

It is suggested not to specifically mention the requirement of being a Chartered Accountant as it will lead to the necessity of listing down the other similar qualifications such as Chartered Engineers. Thus it is suggested to remove 'Associate of the Chartered Accountants of Sri Lanka' from the qualifications mentioned, with the view that the said qualification and the other similar qualifications would anyway come under 'another relevant qualification approved by the Board'. We also suggest that the Board will approve such qualifications and consider the registration of loss adjusters with expert knowledge in appropriate fields and circumstances.

**Requirement of loss adjusters being citizens of Sri Lanka**

Under Proposed Rules (1) (b) it is required the loss adjusters to be "Citizens of Sri Lanka". This precludes our engaging of an overseas party (individual) for certain specialized areas. This is considered to be disadvantageous due to the dearth of loss adjusters available locally in the event of a catastrophe or larger and complex events. We are also of the view that the insurance industry will gain a valuable international exposure as to loss adjusting functions through the engagement of foreign loss adjusters.

Therefore it is suggested to include appropriate mechanism to allow insurers to engage foreign loss adjusters for complex claims.

**Identification of the status of motor assessors in the context of loss adjusting**

In light of the definition of loss Adjuster given in the RII Act it appears that there may be a confusion on the role played by motor assessors as they engage in valuing damages of motor vehicles in the area of motor insurance.

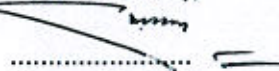
Thus, it is suggested that an express provision should be included in Proposed Rules excluding the motor assessors from falling within the definition of loss adjusters.

**Professional Liability Insurance to be obtained by the loss Adjusters**

Under Proposed Rule 1 (f) the loss adjusters have to be covered by adequate professional liability insurance with a minimum policy limit of at least Rs. 10 Mn. It is suggested to bring down the minimum value of the insurance policy considering the value of majority of the claims in which loss adjusters are engaged for.

We are looking forward to making any further contribution on finalizing the proposed rules. Should you require any clarification on the contents herein, we are more than happy to provide same.

Yours faithfully,



**Kumar Muttiah**

Deputy General Manager - General Insurance

Copied to: Mr. Shah Rouf – Chief Executive Officer

Director General  
Insurance Board of Sri Lanka,  
Level 11 East Tower,  
World Trade Centre,  
Echelon Square,  
Colombo 01.



5<sup>th</sup> November 2014,

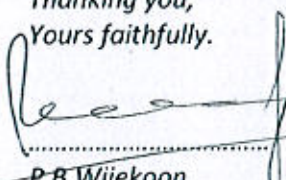
Dear Madam,

**Proposed Rules on Registration Of Loss Adjusters**

We have for reference your letter dated 9<sup>th</sup> October 2014 on the above and give below our comments.

1. Under rule one (d) an affidavit is to be obtained.
2. Under rule three insurance company wise details to be included in the annual report
3. Every loss adjuster must register with more than three insurance companies.

Thanking you,  
Yours faithfully.

  
P.B. Wijekoon  
Principal Officer

**SENKADAGALA INSURANCE BROKERS (PVT.) LTD.**



George Steuart  
INSURANCE BROKERS



Mrs Damayanthi Fernando  
Director General  
Insurance Board of Sri Lanka  
Level 11, East Tower  
World Trade Center, Echelon Square  
Colombo 01.

10<sup>th</sup> November 2014

Dear Madam,

**Proposed Rules on Registration Of Loss Adjusters in Sri Lanka**

Thank You for your letter of 9<sup>th</sup> October 2014 on the above subject.

The proposed rules seem adequate to a very great extent but assume could be improved collectively.


As mentioned in your introductory Para, we are a Broker/Participant in the insurance Industry and very much rely on good Loss Adjusters and are happy to a certain extent.

1. On large claims is there any possibility of the Broker having the services of a Competent Loss Adjuster to assist the claims preparation and required advice.
2. Is there any restriction by IBSL law or by the insurers that loss Adjusters cannot be an advisor to a Broker, when ever the need arises.

Professional Indemnity value for Loss Adjuster is given as 10Mn and 100Mn in two Pages which is correct?

Thanking you,  
Yours faithfully,

**GEORGE STEUART INSURANCE BROKERS (PVT) LTD**

  
**NANDANA GURUSINGHE**  
CONSULTANT - OPERATIONS /PRINCIPAL OFFICER



**PEOPLE'S  
INSURANCE**

**People's Insurance Limited**

(A Subsidiary of People's Leasing & Finance PLC and People's Bank)

Company No. PB 3754

53, Dharmapala Mawatha,  
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Sri Lanka.

Tel : (+94) 11 2206406 Fax : (+94) 11 2206436

Website : [www.peoplesinsurance.lk](http://www.peoplesinsurance.lk)

10<sup>th</sup> November 2014



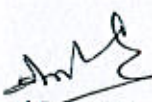
Your Ref: IBSL/DG/LEG/14/10/457

Ms. Damayanthi Fernando  
Director General  
Insurance Board of Sri Lanka  
Level 11, East Tower, World Trade Centre  
Echelon Square  
Colombo 01

**Proposed Rules on Registration of Loss Adjusters in Sri Lanka**

Reference above our suggestions and comments are attached. If you need any further explanation/clarification on the issues raised by us please let us know.

Yours faithfully,

  
Nimal R Perera  
Chief Operating Officer



**PROPOSED RULES ON REGISTRATION OF LOSS ADJUSTERS****5 - Annexure****2 (c) Qualifications****Suggestions**

1. C (I) - Add Australia....., after United Kingdom.
2. C (Vi) - Other relevant qualifications:

Consider following:-

- A degree in (1) Engineering, (2) Agriculture, (3) Veterinary Science from a recognized university
- (4) Qualified Medical Doctor
- Persons over 55 with a diploma from a recognized technical institute with at least 10 years post qualifications experience in the field of insurance risk assessment (5)

**Notes on Suggestion 2**

- (1) For engineering related claims. Currently companies appoint qualified engineers as the first choice, instead hiring a loss adjuster who may hire an engineer for much specialized jobs.
- (2) For crop insurance claims
- (3) For livestock claims
- (4) In case of Medical Expenses Insurance. Specially if an insurer hires a TPA, such TPA should have a Qualified Medical Doctor as a Director (see Indian – IRDA regulation)
- (5) Most of the motor claim assessors and persons hired for small building/ machinery claims are holders of such diplomas. In fact majority of in-house "Engineers" of insurers are certificate holders of Technical Institutes. Only few are university graduates.

3 (a) What about Partnerships?

6 & 7. Income depends on the work given by the insurers. Fees are high for individuals!

**Few Relevant Issues**

1. Special issues related to Marine Insurance

1.1 Marine insurance policies contain a Clause: In the event of damage to, or loss of the interest under this policy, no claim will be admitted by the Company unless prompt notice is given to the Company and/ or to the Surveyors named in the schedule.

Usually these surveyors are pre- selected, internationally recognized adjusters. For example People's Insurance has an agreement with W.K. Webster.



In case of exports (from Sri Lanka), any losses observed at the destination are surveyed and reported by such adjusters. In case of both exports and imports where the voyage involves trans- shipments and losses happening at such ports services of a surveyor will be necessary.

- 1.2 In case of general average (losses due to sacrifice made/ expenses incurred to preserve the rest of a venture) expenses are shared among all interests in proportion to their value. The selection of an average adjuster is prerogative of the ship owner.
2. Most of the developed markets including Singapore have adequate Chartered Loss Adjusters. Sri Lanka needs to encourage this qualification. In the interim partial qualifications need to be recognized. Malaysia recognizes such students for claims adjustment upto certain limits.
3. Trust that these rules will not make any impediment to insurers appointing experts – e.g. government analyst, as investigators. They will not asses claims.





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Sri Lanka Insurance Corporation Ltd

10<sup>th</sup> November 2014

Your Reference No: IBSL/DG/LEG/14/10/457

Ms. Damayanthi Fernando  
Director General  
Insurance Board of Sri Lanka  
Level 11, East Tower  
World Trade Centre  
Phelon Square  
Colombo 01



Dear Ms. Fernando

**RE: PROPOSED RULES ON REGISTRATION OF LOSS ADJUSTERS**

We refer to your letter dated 09<sup>th</sup> October 2014, on the above subject matter, and wish to propose the following:

1. Given the high involvement of engineers on the subject matter, we propose to include Chartered Engineers to the category of (c)-point no.02.
2. For claims amounting to lesser values, we suggest rules allowing the services of loss adjusters with qualifications other than Chartered Officers (e.g. National Diploma in Technology and Higher National Diploma in Engineering etc.) AND lesser registration fees accordingly.

In addition, please note that the proposed rules are being further analyzed and we will share any additional proposals, if any, accordingly in due course.

Thanking You

Yours Faithfully

For SRI LANKA INSURANCE CORPORATION LTD

Deepthi P. Lokuarachchi

Chief Executive Officer



10<sup>th</sup> November 2014

Your Ref: IBSL/DG/LEG/14/10/457

Ms. Damayanthi Fernando  
Director General  
Insurance Board of Sri Lanka  
Level 11, East Tower, World Trade Centre  
Echelon Square  
Colombo 1.

Dear Madam,

**Proposed Rules on Registration of Loss Adjusters**

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We write with reference to your letter dated 9<sup>th</sup> October, 2014 pertaining to the above.

IASL, whilst fully supporting the efforts of IBSL to register loss adjusters wishes to make some suggestions as below, considering some practical aspects of the insurance operation.

- 1) As per the Act, a loss adjuster has been defined as : "a person who has specialized knowledge in investigating and who is assessing losses arising from insurance claims and registered as a loss adjuster under the provisions of this Act".

It would be appreciated if the rules could state that the necessity to register applies only to **independent** loss adjusters and not to employees of Insurers who perform loss adjusting functions. Further, Motor Assessors should not in our view fall within definition of a Loss Adjuster considering that their role is in assessing damage to a motor vehicle is far less complex than a loss adjustment done for a property claim. Therefore, even independent motor assessors should be exempted from the requirement to register.

Currently, the majority of Loss Adjusters in the industry are individuals. There are only a few Loss Adjusting Companies, probably less than five in number. Most of the individuals currently providing loss adjusting services are over 60 years of age. It appears that several of them are quite gainfully engaged in consultancy work and loss adjusting is only an additional source of income. It is very rare if not unknown to come across young individuals who would choose the field of loss adjusting with the intention of making it their career. As a result, Loss Adjusters in Sri Lanka seem to be virtually heading for extinction, despite the fact that they provide an essential service to insurance companies.

Considering the above and based on a few informal discussions that some Insurers have had with Individuals who are currently operating as Loss Adjusters, it was revealed that their view was that the registration fee of Rs. 75,000/- is rather high. As a result, some of them are contemplating whether or not they should continue as Loss Adjusters.

In view of the fact that the insurance industry will not be able to function effectively without Loss Adjusters, it would be appreciated if the registration fee could be reduced to about Rs. 20,000/- in order to encourage the existing persons to continue as Loss Adjusters and get registered. It should also be noted that currently, many of the individuals involved in loss adjusting have specific areas of expertise such as civil, electronic, mechanical, accounting etc. For example, an individual who specializes in the area of civil works may not be able to handle loss adjustments pertaining to electronic equipment and vice versa. It is therefore necessary to ensure that there are a sufficient number of Loss Adjusters available to Insurers with the capability of handling each of these areas.

The qualifications specified in the proposed rules may need to include the specialties mentioned above and it is suggested that holders of AIII are also permitted to register as loss adjusters. We would also recommend that persons who have been actively involved in the insurance business for 10 years or more are also permitted to register as loss adjusters, despite them not having an insurance qualification. It should also be noted that a new entrant into the field of loss adjusting will not fulfill the criteria of 2 (e) so some allowance would need to be made to accommodate such persons as otherwise, there may be no route for new entrants to take.

Further, we trust that IBSL's intention in respect of the below stipulation is that only the person who signs off and is making the decisions must meet the requirements.

*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.*

The suggested limits for Professional Indemnity insurance seem rather high and it is suggested that these limits are reduced. To make a comparison, even insurance brokers are required to have a far lower level of cover.

It is noted that Section 89A (2) of RII (Amendment) Act No 3 of 2011 stipulates that a person who is not a resident of Sri Lanka cannot operate as a Loss Adjuster, unless the function of loss adjusting is being carried out with a person in Sri Lanka who has been registered as a Loss Adjuster.

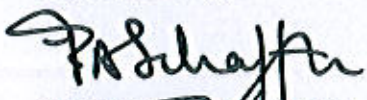
Going by past experience in the insurance industry, there have been some instances (though not frequent) where it would have been practically difficult to comply with the above rule. One instance was when the tsunami occurred in 2004. There was a shortage of persons with sufficient expertise within the country to adjust complex material damage and business interruption claims emanating from industries of large corporate clients. If the insurance industry had confined themselves to using one or two local loss adjusters, corporate clients would have been very dissatisfied with the delay in settling claims and further, insurers would have had to pay higher amounts on business interruption claims as a result of the delay in finalizing the material damage claims. Such a situation was averted as a result of some Insurers engaging the services of international loss adjusters with the necessary expertise, although those international loss adjusters had no affiliation with any loss adjuster in Sri Lanka.

There are also instances, where some reinsurers who are carrying a significant portion of high value risk, may sometimes compulsorily require an international Loss Adjuster to handle the adjustment of a claim in Sri Lanka. Here again, such an international loss adjuster may not be affiliated to any local loss adjuster. However, in such instances, a local insurer will have little option but to comply with the reinsurer's requirement, It would therefore be appreciated if the rules could be amended to permit the use of international loss adjusters even if they are not affiliated to a locally registered loss adjuster, bearing in mind that no Insurer will exercise this option unless absolutely necessary, considering the high fees and accommodation costs that will have to be paid to international adjusters, which would eventually have to be borne by the local insurance company.

It would also be appreciated if the legal requirement to use registered loss adjusters could be enforced only after at least 15-20 persons (individuals and/or companies) representing all necessary specialties have registered themselves, as lack of sufficient loss adjusters will seriously affect the operations of Insurers. It would be further appreciated if IBSL could introduce some mechanism to facilitate and encourage new entrants into the field of loss adjusting in order to create an adequate pool of competent loss adjusters for the future.

We trust that this feedback would be given due consideration prior to finalizing the rules for registration and a dialogue is held with the stakeholders concerned.

Yours faithfully,



PRAKASH SCHAFFTER  
PRESIDENT

P.S. We would also appreciate your clarification as to whether the requirement for registration of "Loss Adjusters", would prevent insurers from using other individuals/firms to quantify Losses, even though they are not Loss Adjusters.

# SRI LANKA ASSOCIATION OF LOSS ADJUSTERS

43 1/1, Galle Face Terrance, Colombo 3, Sri Lanka, Tel. 011 -2449615 – Fax 011 2449615 . E-mail [larc120@yahoo.com](mailto:larc120@yahoo.com)

MEMBER **IFAA** - INTERNATIONAL FEDERATION OF ADJUSTING ASSOCIATIONS

7<sup>th</sup> November 2014

Mrs. Damayanthi Fernando,  
Director General,  
The Insurance Board of Sri Lanka,  
Level 11, East Tower,  
World Trade Centre,  
Echelon Square,  
Colombo 1.



Dear Madam,

Thank you for forwarding us the "Proposed Rules on the Registration of Loss Adjusters in Sri Lanka for our comment.

Our views are noted hereunder and to make matters easier, we have initially taken item 5 (Annexure) of your Table of Contents for comment that would automatically seem to alter the "Proposed Rules" & Cost v Benefit (i.e. 1 & 4 of the Table of Contents) & have commented on "Additional Issues" & "Conditions to be imposed on Registration" thereafter.

## COMMENTS ON PROPOSAL – TABLE OF CONTENTS

### 5. ANNEXURE

Rule 2(f) , 3(c) , 4(c) & 5(d) need to be deleted for the reasons that;

Loss Adjusters are independent qualified persons who have no contractual or quasi contractual obligation either to the Insurer or the Insured. Their professional expertise is requested for an assessment of loss is dependent upon the varied type & circumstances surrounding the claim and as such they only recommend to the Insurer that in their professional & considered opinion, what the Adjuster perceives to be the quantum of loss given the circumstances. The Adjuster's recommendation as to the quantum can be rejected / reduced/ increased or accepted by the Insurer and accordingly the Insurer will communicate it as their decision to the Insured with whom the Insurer has a contract of Insurance.

The Insured however is also entitled to accept/reject/request a review of the offer made by the Insurer. At this point if a dispute arises, the remedies are specified in the Insurance Policy. These may be that the dispute be settled by "Insurance Ombudsman" for smaller claims, Arbitration or litigation. The loss adjuster cannot and will not be held by either party to the contract for professional negligence over a recommendation based

on wide and varied circumstances. The Adjuster may be called upon by the Insurer to defend his report if the necessity arises in Court as an Independent expert. It is only at this juncture that the Insured is able to access the Report.

The Interpretation & invoking of certain Policy conditions in the admission or rejection of liability in limine solely rests with the Insurer and is dependent upon Special investigator/ Analysts reports and does not involve the Loss Adjuster.

In contrast to Insurance Brokers & Agents who come under the "Law of Agency" a Professional Indemnity Cover for Independent Loss Adjusters would be out of place & not needed in the absence of a plaintiff with a valid cause for action.

**Rule 2 (c) to be expanded as;**

- Associate of the Chartered Institute of loss adjusters UK.
- Associate of the Insurance Institute of UK.
- Professionals in any field of Engineering, Accounting, Science or Law.
- A person who has worked in the profession of an Independent loss adjuster for a period of 10yrs.
- Any other relevant qualifications approved by the Board.

**Rule 2(d) is okay**

**Rule 2 (e) should be deleted due to expansion of Rule 2 (c)**

**Rule 2 (g) will now be Rule 2(e) due to the deletion of also Rule 2(f)**

**Rule 3 (d) will now be Rule 3 (c) due to the original deletion of Rule 3(c)**

**New Rule 3(c) will now read as quote "All individuals.....meet the requirements of Rule 2(a) to (e)**

**Rule 3 (e) will now read Rule 3(d)**

**Rule 3(f) will now read Rule 3 (e)**

**Rule 4 (d) will now read Rule 4 (c) due to the deletion of original Rule (c)**

**Rule 4(e) will now read as Rule 4(d)**

**Rule 5(e) will now read Rule 5(d) due to the deletion of original Rule (d)**

**Rule 5(f) will now read as Rule 5(e)**

Rules 6 & 7 to be reinstated as;

Initial Registration fees must be paid to the Board as follows;

Individuals	Rs. 5,000/-
Persons other than individuals.	Rs. 20,000/-

After the first calendar year registration fees must be paid to the Board before the end of January each year as follows;

Individuals.	Rs. 4,000/-
Persons other than individuals.	Rs. 5,000/-

**Reason for adjustment:** Except in the case of 1 or 2 companies that solely carry out loss adjusting, For Individual Professionals, Loss adjusting is only part time work as selection of a loss adjuster is entirely dependent upon the Insurer and is not under the control of a loss adjuster. As professionals have to pay heavy subscriptions in relation to their profession, the Registration & Renewal fee was considered excessive.

Rule 8 & Rule 9 are okay.

TABLE OF CONTENTS 1 & 4 – Changes have already been addressed in Annexure 5 above.

## 2. ADDITIONAL ISSUES

### Agents and Brokers

We do not believe that in Sri Lanka, Brokers & Agents perform Loss Adjusting but they assist the Insured in assessing the Loss as a Loss Assessor in forwarding the claim on behalf of the Insured. Also Insurers themselves assess claims that are less than a certain value as Loss Assessors. Their staffs do not sign as Loss Adjusters. Also in cases of On the Spot Insurance, the Insurer negotiates an offer on the spot as a matter of efficiency and as long as the Insured does not complain there does not appear to be a problem.

However, in certain cases if the Insurer encounters problem with the Insured, he may pass on the claim for Independent Loss Adjustment.

We are not sure as to which rules hinder the above work that may be carried out by not only Brokers & Agents on one part but the Insurers as well on the other part.

### Carrying on Business other than Loss Adjusting

The sentence quote "Under the Act there is nothing to prevent Loss Adjusters from performing functions unrelated to investigating and assessing losses under Insurance Policies" Unquote

The above is not very clear. Although all Loss Adjusters may not be Professionals, all Professionals can be Loss Adjusters who are experts in a particular field and normally assess claims fitting that discipline or by contracting an expert for that part of a claim.

All Insurers do not give work to all Loss Adjusters and all Loss Adjusters do not work for all Insurers and that is a fact.

It is better worded as "Under the Act there is nothing to prevent Loss Adjusters from practising their profession as long as there is no conflict of interest while called upon to independently assess losses under Insurance Policies.

For eg 1: An Insured can request the assistance of an expert who may be a Loss Adjuster to assess the loss for forwarding to the Insurer if he finds difficulty in calculating and presenting a claim due to loss of documents/ absence of technical knowhow or whatever the reason is . At this point the expert may assist the Insured as he does not perform a loss adjusting function for that particular Insurer.

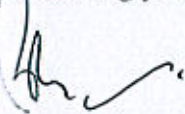
Finally, any dispute in liability and/or quantum between the insurer & Insured will be referred to Arbitration or Courts that will decide. Hence IBSL should not be seen under the Act to protect Insurers en bloc by bringing in the word "unrelated to investigating and assessing losses under Insurance Policies" at the cost of Loss Adjusters or Insureds.

### 3. CONDITIONS TO BE IMPOSED ON REGISTRATION:

It would be clear if specific Rule No's are indicated for compliance.

We would be pleased if we are afforded an opportunity to discuss our comments with you at your earliest.

Thanking you,



Yours faithfully  
N. Bogahalande  
President

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Treasurer of SLALA- Mob: 0722444455, email; majanthaindran@gmail.com  
Members of SLALA