

THE REGULATION OF INSURANCE INDUSTRY ACT, NO. 43 OF 2000

TERMS AND CONDITIONS ON PLACEMENT OF REINSURANCE

**ISSUED UNDER SECTION 31(1) OF THE REGULATION OF INSURANCE INDUSTRY ACT,
NO. 43 OF 2000**

PART A

Applicable to Insurers

Insurers shall strictly adhere to the following terms and conditions in relation to all transactions relating to reinsurance placements effected for year 2024 onwards:

(1) Authorization by a Regulatory/Supervisory Authority

Reinsurance shall be placed only with an entity authorized by a regulatory/supervisory authority to carry on reinsurance business, hereinafter referred to as "**Reinsurer**"

(2) Long term rating requirements

(i) The **Reinsurer** shall have long term ratings for both Credit and Financial Strength from one of the following rating agencies and the rating must have been awarded not more than 18 months before the reinsurance placement:

Rating agency	Minimum Credit Rating (Long-Term)	Minimum Financial Strength Rating (Long-Term)
(1) Moody's Investor Services	Baa3	Baa
(2) Standard and Poor's Corp. (3) Fitch Ratings	BBB	BBB
(4) A.M. Best Company	bbb	B+

(ii) Ratings may have (+) or (-) sign to show relative standing within the major categories.

(iii) The **Reinsurer** shall be the risk carrier of the insurer and **shall not function as a fronting entity of another reinsurer.**

(iv) Insurers shall not place reinsurance with a Reinsurer whose rating had been below the minimum required, and which had subsequently been upgraded to an acceptable rating within the eighteen months' time period specified above; unless the latter rating has been validated/ affirmed by the respective rating agency after a period of one year.

(3) During the period of cover, if the rating of the Reinsurer falls below the lowest rating specified in (2) or the rating is withdrawn, the insurer must inform the Insurance Regulatory Commission of Sri Lanka (IRCSL) immediately with a full explanation including:

i. the new rating assigned, rating classification, date of assignment, and rating organization, or

ii. the date of withdrawal, with, in either case,

iii. the reasons for the action (provided by the rating agency), and

iv. a full explanation of what the insurer intends to do about it.

(4) The requirements in 2 & 3 above will not apply to reinsurance placements with NITF in view of the compulsory ceding of 30% as required by Section 31(1A) of the Regulation of Insurance Industry Act, No. 43 of 2000 (RII Act).

(5) Reinsurance arrangements with Intergovernmental Organizations

(i) If an insurer wants to place its reinsurance with an intergovernmental organization, such intergovernmental organization shall have long term ratings for Credit and Financial Strength from one of the rating agencies provided in 2 (i) above. All requirements in 2 & 3 above shall apply to this arrangement as well;

(ii) In such arrangement, the government of Sri Lanka shall be represented and/or have a stake in such arrangement.

Reinsurance pools

(6) An insurer who wishes to place its reinsurance with a reinsurance pool shall obtain prior approval of IRCSL for the use of such security, on a case-by-case basis, separately for each such pool every year. For the IRCSL to consider such an arrangement, the suggested reinsurance pool shall be backed by Reinsurers each carrying a minimum rating specified in requirement (2) and meets requirement (1) above. The said request shall be submitted to IRCSL at least two months prior to placement with such reinsurance pool.

Reinsurance with related Reinsurers

(7) If Insurers place reinsurance with related reinsurers, such reinsurers shall have long-term ratings for both Credit and Financial Strength from one of the following rating agencies awarded not more than 18 months before the reinsurance placement:

Rating agency	Minimum Credit Rating (Long-Term)	Minimum Financial Strength Rating (Long-Term)
(1) Moody's Investor Services	A3	A
(2) Standard and Poor's Corp.	A	A
(3) Fitch Ratings	A	A
(4) A.M. Best Company	a	A

Ratings may have (+) or (-) sign to show relative standing within the major categories.

(8) Reinsurance with related reinsurers must be on terms at least as favourable to the insurers as market terms.

Insurers shall provide details of reinsurance arrangements with related parties and justification for such arrangements (including details of alternative arrangements considered, quotations obtained, approval from related party committee etc.) annually to IRCSL. Such details shall be provided with a confirmation by the Principal Officer of the insurer that the Board approval has been taken for such reinsurance arrangements.

Unlimited liability covers

(9) For all classes and sub-classes, other than third party bodily injury cover under motor policies and liability cover under WCI policies, insurers may provide unlimited cover only if they have unlimited reinsurance protection.

(10) If an insurer does not obtain unlimited reinsurance protection for an unlimited liability under motor policies or WCI policies, but obtains limited reinsurance protection, the insurer must adequately mitigate the excess risk.

(11) When the insurer obtains limited reinsurance protection, the limit must be at least Rs. 200 million on any one loss or series of losses arising out of any one event.

Threat to financial condition

(12) An insurer must immediately inform IRCSL when it becomes aware of its breach of these terms and conditions or of any reinsurance issue that does or could materially negatively affect its financial condition.

Timely completion of contracts

(13) Insurers must promptly document the principal reinsurance terms agreed and finalize formal reinsurance contracts in a timely manner. The reinsurance contracts that are not fully effective or not sufficiently legally certain must not be taken as credit on the balance sheet.

PART B

Applicable to Insurers and Brokers

(14) Insurers and Brokers must strictly adhere to the following terms and conditions in relation to all transactions relating to reinsurance placements:

- (i) that any foreign reinsurance broker acts only within its own jurisdiction and does not act or carry on insurance brokering business in Sri Lanka;
- (ii) that the foreign reinsurance broker is licensed by the relevant authority of the country of registration to carry out reinsurance brokering business and to act as an intermediary to insurers and brokers, outside its jurisdiction at the time reinsurance business is placed;
- (iii) that appointing of such foreign reinsurance broker shall not be through a tender or otherwise where the foreign reinsurance broker has applied and participated;
- (iv) that following are disclosed in the reinsurance treaty:
 - (a) names and addresses of all brokers, co-brokers participating in the placement; and
 - (b) brokerage/commission of each broker
- (v) that all brokers, co-brokers participating in the placement shall sign off the reinsurance treaty; In the event more than one broker is involved, they shall enter into a co-brokering agreement which, inter alia, specifies the applicable dispute resolution mechanism, and such agreement shall be filed with IRCSL.

PART C

Reporting

(15) Insurers shall file with IRCSL information required under these terms and conditions.

(16) Insurers shall file its report on the reinsurance/ risk transfer program for the up-coming year on or before 31st January of each year with IRCSL:

i) The report shall outline the following:

- a. their reinsurance arrangements generally;
- b. the past success (or otherwise) of the reinsurance program including the record of the cedant in collecting reinsurance receivables as they fall due, and any disputes related to the interpretation of reinsurance contracts or claims that have arisen or remained unresolved during the year in which the report is required to be submitted;
- c. their future strategic approach to reinsurance and how it fits within their wider strategic plan for the business as a whole and their capital management strategy, Enterprise Risk Management (ERM) and Risk Management processes;
- d. the structure of the reinsurance program including any alternative risk transfer mechanisms;
- e. the measures taken by the insurer to determine the adequacy of the regulatory regime in the domicile of reinsurers taking into account the quality of the regulatory and supervisory regime, compliance with international standards, and the domestic legal regime;
- f. the appropriateness of the reinsurance/ risk transfer program class wise given the underlying insurance portfolios and the insurer's financial condition;
- g. the proportion of business ceded so that the net risks retained are commensurate with the cedant's risk appetite and financial resources, and the overall level of risk transfer;
- h. the resilience of the reinsurance program in stressed claims situations including in the aftermath of a catastrophe, when reinsurance claims should be promptly handled by all parties;
- i. any credit/ reinsurance/ currency or other risk mitigation in place;
- j. details of exposure to a single reinsurer or different reinsurers in the same group and justification for any excessive exposure;
- k. how the reinsurance/risk transfer program will be executed (including administrative and IT capabilities, the tracking of claims, and the use of intermediaries) and systems, procedures, and controls for ensuring that the strategy and program are implemented and complied with;

- l. the financial condition, operating standards, and claims payment record of each Reinsurer (in normal and stressed conditions);
- m. the extent to which relevant reinsurance functions or activities are outsourced, either externally or within the same group:
- n. Details of reinsurance arrangements with related parties and justification for such arrangements (including details of alternative arrangements considered, quotations obtained, approval from related party committee etc.); and
- o. any other information in relation to reinsurance/risk transfer programs.

(ii) Insurers shall file certified copies of all treaties in respect of Reinsurance placements, along with the following on or before 15th of March of each year with IRCSL:

- a) A copy of the Board paper on Re insurance programme;
- b) The Board minute certified by the company secretary; and
- c) a certification by the Principal Officer, Chief Finance Officer and Specified Officer that all IRCSL requirements are met by the company.

(17) Insurers shall provide the facultative reinsurance arrangements to IRCSL along with the information required in formats prescribed in the quarterly returns in terms of Determination 12.

Information to IRCSL

(18) Cedants must explain the reinsurance/risk transfer strategy, program, and associated risks to IRCSL which demonstrates the intended economic effect and to assess the strategy and program.

(19) Cedants must make available to IRCSL all information about the reinsurance program that IRCSL would reasonably need to form a judgment about their risk management and the prudential ramifications of the reinsurance/ risk transfer strategy and program.

Effect of Non-Compliance

(20) Non-compliance of these terms and conditions by an insurer and/or broker shall be considered as a violation of a condition imposed by the Insurance Regulatory Commission of Sri Lanka in terms of Section 18(1)(g) and Section 84(1)(ccc) of the RII Act respectively.

These terms and conditions shall come into effect from 22nd August 2024.

In view of the above, the Terms and Conditions issued in 2017 in respect of reinsurance placement are repealed.

Notes / Clarifications

(21)

- (i) There is no prohibition for a foreign reinsurance broker to place reinsurance business with a foreign reinsurance company on behalf of an insurer from their respective country/jurisdiction. Accordingly, an insurer or a broker directly sourcing services of a foreign reinsurance broker is permitted.

- (ii) A foreign reinsurance broker, acting within its own jurisdiction and accepting placement of reinsurance business directly by an insurer or broker is not prohibited. However, the nature of the engagement of foreign reinsurance broker, the party to whom the services are provided, and the nature of such services will determine whether a foreign reinsurance broker is engaging in the insurance / reinsurance brokering business in Sri Lanka or outside Sri Lanka.

Definitions

In these terms and conditions, unless the context otherwise requires:

“Broker” shall have the same meaning as defined in the RII Act

“Foreign reinsurance broker” means a broker licensed by the relevant authority of the country of registration to carry out reinsurance brokering business and to act as an intermediary to insurers and brokers, outside its jurisdiction to place reinsurance business;

“Insurer” shall have the same meaning as defined in the RII Act;

“Insurer” includes “reinsurer”;

“NITF” means the National Insurance Trust Fund Board established by the National Insurance Trust Fund Act, No. 28 of 2006; and

"Related party" means a related party of the insurer and has the same meaning as in the Sri Lanka Accounting Standards;

"Sri Lanka Accounting Standards" means the accounting standards adopted under the Sri Lanka Accounting and Auditing Standards Act, No. 15 of 1995.