

INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY, NEW DELHI

NOTIFICATION

New Delhi, the 14th July, 2000

Insurance Regulatory and Development Authority (Insurance Advertisements and Disclosure) Regulations, 2000**F.No.IRDA/Reg./7/2000.--**

In exercise of the powers conferred by section 26 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Authority in consultation with the Insurance Advisory Committee, hereby makes the following regulations, namely:-

1. Short title and commencement — (1) These regulations may be called the Insurance Regulatory and Development Authority (Insurance Advertisements and Disclosure) Regulations, 2000.

(2) They shall come into force on the date of their publication in the Official Gazette.

Definitions — Unless the context otherwise requires, —

(a) "Authority" means the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of The Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(b) "insurance advertisement" means and includes any communication directly or indirectly related to a policy and intended to result in the eventual sale or solicitation of a policy from the members of the public, and shall include all forms of printed and published materials or any material using the print and or electronic medium for public communication such as:

- i) newspapers, magazines and sales talks;
- ii) billboards, hoardings, panels;
- iii) radio, television, website, e-mail, portals;
- iv) representations by intermediaries;
- v) leaflets;
- vi) descriptive literature/ circulars;
- vii) sales aids flyers;
- viii) illustrations form letters;
- ix) telephone solicitations;
- x) business cards;
- xi) videos;
- xii) faxes; or
- xiii) any other communication with a prospect or a policyholder that urges him to purchase, renew, increase, retain, or modify a policy of insurance.

Explanation: The following materials shall not be considered to be an advertisement provided they are not used to induce the purchase, increase, modification, or retention of a policy of insurance:— (i) materials used by an insurance company within its own organization and not meant for distribution to the public;

- communications with policyholders other than materials urging them to purchase, increase, modify surrender or retain a policy;
 - materials used solely for the training, recruitment, and education of an insurer's personnel, intermediaries, counselors, and solicitors, provided they are not used to induce the public to purchase, increase, modify, or retain a policy of insurance
 - iv) any general announcement sent by a group policyholder to members of the eligible group that a policy has been written or arranged.
- (c) "intermediary or insurance intermediary includes insurance brokers, reinsurance brokers, insurance consultants, surveyors and loss assessors, or any other person representing or assisting an insurer in one or more of the following :
- i) soliciting, negotiating, procuring, or effectuating an insurance contract or a renewal of an insurance contract;
 - ii) disseminating information relating to coverage or rates;
 - iii) forwarding an insurance application;
 - iv) servicing and delivering an insurance policy or contract;
 - v) inspecting a risk;
 - vi) setting a rate;
 - vii) investigating or assessing a claim or loss;
 - viii) transacting a matter after the effectuation of a contract; or
 - ix) representing or assisting an insurer or other person in any other manner in the transaction of insurance with respect to a subject of insurance resident, located or to be performed in India.
 - x) servicing a policy or contract.
- (d) "unfair or misleading advertisement" will mean and include any advertisement:
- (i) that fails to clearly identify the product as insurance;
 - ii) makes claims beyond the ability of the policy to deliver or beyond the reasonable expectation of performance;
 - iii) describes benefits that do not match the policy provisions;
- uses words or phrases in a way which hides or minimizes the costs of the hazard insured against or the risks inherent in the policy;
- omits to disclose or discloses insufficiently, important exclusions, limitations and conditions of the contract;
- gives information in a misleading way;
- illustrates future benefits on assumptions which are not realistic nor realisable in the light of the insurer's current performance;
- where the benefits are not guaranteed, does not explicitly say so as prominently as the benefits are stated or says so in a manner or form that it could remain unnoticed;
- implies a group or other relationship like sponsorship, affiliation or approval, that does not exist;
- makes unfair or incomplete comparisons with products which are not comparable or disparages competitors.

- (e) "prospect" means any party that enters or proposes to enter into an insurance contract directly, or through an insurance intermediary.

Words and expressions used and not defined in these regulations but defined in the Insurance Act, 1938 (4 of 1938), or the Life Insurance Corporation Act, 1956 (31 of 1956) or the General Insurance Business Nationalisation) Act, 1972 (57 of 1972), or Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) shall have the meanings respectively assigned to them in those Acts or the rules as the case may be.

3. **Compliance and control** — (1) Every insurer or intermediary or insurance agent shall —
- (i) have a compliance officer, whose name and official position in the organisation shall be communicated to the Authority, and he shall be responsible to oversee the advertising programme;
 - (ii) establish and maintain a system of control over the content, form, and method of dissemination of all advertisements concerning its policies.
 - (iii) maintain an advertising register at its corporate office which must include:
 - (a) a specimen of every advertisement disseminated, or issued or a record of any broadcast or telecast, etc.;
 - (b) a notation attached to each advertisement indicating the manner, extent of distribution and form number of any policy advertised, and
 - (iv) maintain a specimen of all advertisements for a minimum period of three years.
 - (v) file a copy of each advertisement with the Authority as soon as it is first issued, together with information:
 - (a) an identifying number for the advertisement;
 - (b) the form number(s) of the policy(ies) advertised and when the product/s were approved by the Authority;
 - (c) a description of the advertisement and how it is used.
 - (d) the method or media used for dissemination of the advertisement.
 - (vi) file a certificate of compliance with their annual statement stating that, to the best of its knowledge, advertisements disseminated by the insurer or by its intermediaries during the preceding year have complied with the provisions of these regulations and the advertisement code as stated in regulation 12.
- (2) The advertisement register shall be subject to inspection and review by the Authority for content, context, prominence and position of required disclosures, omissions of required information, etc.
4. **Changes in advertisement** — (1) Any change in an advertisement would be considered a new advertisement.
- (2) All the provisions of regulation 3 shall apply *mutatis mutandis* to an advertisement referred to in sub regulation (i).
- (3) The Authority shall be informed at the time of filing the advertisement the extent of change the original advertisement

5. **Insurance company advertisements** — (1) Every insurance company shall be required to prominently disclose in the advertisement and that part of the advertisement that is required to be returned to the company or insurance intermediary or insurance agent by a prospect or an insured the full particulars of the insurance company, and not merely any trade name or monogram or logo.

(2) Where benefits are more than briefly described, the form number of the policy and the type of coverage shall be disclosed fully.

6. **Advertisements by insurance agents** — (1) Every advertisement by an insurance agent that affects an insurer must be approved by the insurer in writing prior to its issue;

(2) It shall be the responsibility of the insurer while granting such approval to ensure that all advertisements that pertain to the company or its products or performance comply with these regulations and are not deceptive or misleading.

Explanation: An agent shall not be required to obtain written approval of the company prior to issue for: —

- (i) those advertisements developed by the insurer and provided to the agents;
generic advertisements limited to information like the agent's name, logo, address, and phone number; and
advertisements that consist only of simple and correct statements describing the availability of lines of insurance, references to experience, service and qualifications of agents; but making no reference to specific policies, benefits, costs or insurers.

7. **Advertisements by insurance intermediaries**— Only properly licensed intermediaries may advertise or solicit insurance through advertisements.

8. **Advertising on the Internet** — (1) Every insurer or intermediary's web site or portal shall —
(i) include disclosure statements which outline the site's specific policies vis-à-vis the privacy of personal information for the protection of both their own businesses and the consumers they serve.
(ii) display their registration/ license numbers on their web sites.

(2) For the purposes of these regulations, except where otherwise specifically excluded or restricted, no form or policy otherwise permissible for use shall be deemed invalid or impermissible if such form or policy accurately reflects the intentions of the parties in such form or policy as published electronically or transmitted electronically between parties.

9. **Identity of advertiser** — Every advertisement for insurance shall
(i) state clearly and unequivocally that insurance is the subject matter of the solicitation; and
(ii) state the full registered name of the insurer/ intermediary/ insurance agent.

10. **Endorsements and other third-party involvement** ? (1) A third party, group or association shall not: —

- (i) distribute information about an insurance policy, intermediary or insurer on its letterhead.
- (ii) allow an insurance intermediary or insurer to distribute information about an insurance policy, insurance or insurance company on its letterhead.
- (iii) distribute information about an individual insurance policy, or about an intermediary or insurer in its envelopes, unless—
 - a) the third party is providing only a distribution service for the insurance advertisement and is not itself soliciting the coverage, and
 - b) the insurance information is a piece separate from any other information distributed by the third party and clearly indicates its origin.
- (iv) recommend that its members purchase specific insurance products.
- (v) imply that a person must become a member of its organization in order to purchase the policy.
- (vi) imply that a purchaser of a policy by becoming a member of a limited group of persons shall receive special advantages from the insurer not provided for in the policy.

Provided that a third party, group or association may:—

- (i) endorse an insurance company or insurance intermediary's product and provide truthful statements, quotes, and testimonials endorsing the insurance products to the insurance company for use in the company's advertisements, so long as the language does not convey directly or indirectly a recommendation that members of the organisation purchase the products.
- (ii) provide an insurance company with information about its membership and collect compensation based upon sales for that information.

11. Procedure for action in case of complaint — (1) If an advertisement is not in accordance with these regulations the Authority may take action in one or more of the following ways:

- (i) issue a letter to the advertiser seeking information within a specific time, not being more than ten days from the date of issue of the letter;
- (ii) direct the advertiser to correct or modify the advertisement already issued in a manner suggested by the Authority with a stipulation that the corrected or modified advertisement shall receive the same type of publicity as the one sought to be corrected or modified;
- (iii) direct the advertiser to discontinue the advertisement forthwith;
- (iv) any other action deemed fit by the Authority, keeping in view the circumstances of the case, to ensure that the interests of the public are protected.

The advertiser may seek additional time from the Authority to comply with the directions justifying the reasons therefor. The Authority, may, however, refuse to grant extension of time if it feels that the advertiser is seeking time only to delay the matters.

Any failure on the part of the advertiser to comply with the directions of the Authority may entail the Authority to take such action as deemed necessary including levy of penalty.

12. **Adherence to advertisement code** — Every insurer or intermediary shall follow recognised standards of professional conduct as prescribed by the Advertisement Standards Council of India (ASCI) and discharge its functions in the interest of the policyholders.

13. **Statutory warning** — (1) Every proposal for an insurance product shall carry the following stipulation, as prescribed in section 41 of the Insurance Act, 1938 (4 of 1938):— "No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to take out or renew or continue an insurance in respect of any kind of risk relating to lives or property in India, any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy, nor shall any person taking out or renewing or continuing a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectus or tables of the insurer."

(2) If any person fails to comply with sub regulation (1) above, he shall be liable to payment of a fine which may extend to rupees five hundred.

N. RANGACHARY, Chairperson
[No. Advt.-3/4/Exty/161/2000]