

S No / Para No of Ir	Content of letter of MOF	Our Comment/s	1. Encl (i)
1	This is with reference to letter dated 16-01-2020 from Executive Director, IRDAI on the above cited subject.	<b>Before attempting to make any comment on the above proposal of the Regulator, it needs to be examined as to what exactly the amended Act ( as of 2015) is saying; See Annexure</b>	
2	2. Through the letter it has been informed that intermediary Surveyors are to be licensed under the Insurance Act, 1938. However by making IISLA membership mandatory under section 64 UM, there is an overlap between the jurisdiction of IRDAI and IISLA which is creating a problem. Therefore IRDAI has suggested that in order to ease the norms of entry to become Surveyor and Loss Assessor, section 64UM of Insurance Act 1938 may be amended as under:	<b>Here, we can see that there is no overlap of any authority. Role of the Authority is to prescribe "Qualifications", which can be done by simple "notification" or as "One time Registration", as a validation criterion. Such qualified applicants only are admitted as "Members of IISLA", subject to its "Admission Criterion" devised by IISLA.</b>	

	<p>“Save as otherwise provided in this section and the regulations made there under, no person shall act as a surveyor or loss assessor in respect of general Insurance business. The Authority shall issue one-time registration to act as a surveyor or loss assessor upon satisfactory fulfilment of the qualification and other criteria specified in the regulations issued by the Authority.”</p>	<p><b>This is multiplicity and / or duplication of presence in the Act and also regulations, of role sought to be provided to the Authority; just to fulfil the task of validating "possessing of qualifications prescribed / specified in the Regulations". Qualifications are any how sought to be specified in the Regulations made under the Act, as of now which is in tune with the amended Act 2015. Why the Act needs to be amended for the Authority to issue one time registration of fulfilling such qualifications, is not clear. This can as well be carried out by the Authority as a validation criterion, even without such amendment. However, the intention of this amendment can be seen as to remove IISLA from the Act, doing away with the statutory membership of any SLA or aspirants to become SLA. Such move is against the present provisions of the Act, which has the approval of Parliament, after thorough study and recommendations of various Parliamentary Committees like 41st Std Committee, Select Committee and so on.</b></p>		
3	3. IRDAI is of the view that the suggested amendment would ensure the following :			

3 (a)	a) Doing away with licensing under Section 64UM of Insurance Act, 1938, as various Committees of Government of India had already recommended for the same. IRDAI will only specify qualifications and code of conduct and grant one-time registration with annual fee;	<b>The Act has already done away with licensing by amending 64UM(1), through amended Act 2015, as quoted above. However, the sub clauses of 64UM (4) and (10) are to be properly worded to fall in line with the amended clause of 64UM(1).</b>
		<b>Authority is already empowered through the above amendment to prescribe the qualifications in the Regulations made under the Act. One time registration as a validation criterion can as well be made in the Regulations, and for that purpose there is no need to amend the Act. When one time registration is proposed by the Authority, as a validation criterion, there is no need for annual fee.</b>

3 (b)	<p>b) Doing away with IIISLA membership as mandatory provision under Section 64 UM of Insurance Act, 1938 for ease of registration. The membership related issues can be made part of the IRDAI (Surveyors and Loss Assessors) Regulations as was specified prior to Insurance Laws (Amendment) Act, 2015.</p>	<p><b>This is the crux of the problem. Why the Authority is making such proposal? How mandatory membership of IIISLA, is an obstacle to bring in 'one time registration' as a validation criterion? Qualification aspect has a place in Regulations made under the Act, and the Regulations are well within the scope and authority of IRDAI, and hence this proposal is obnoxious or superfluous. Also, the inconsistency in approach towards SLA issues can be gauged from the proposal that IIISLA membership related issues can be made part of Regulations. Then will it not result in overlap or duplication of jurist diction of IIISLA and IRDA over members? Amendment as proposed by IRDA needs to be rejected in toto, as the proposal is prejudiced and devoid of any logic, and is against the learned opinion of various committees and decision of highest policy making body; the Indian Parliament.</b></p>
		<p><b>Mandatory provision of IIISLA membership under 64UM of the Act is in right place, and we do not see any reason why it should be moved to Regulations made under the Act. Regulations are under the scope of the Regulator and this will be a retrograde step for IIISLA to develop itself into a Self Regulatory Organisation like ICAI, ICSI etc., the original scope envisaged for IIISLA by various Committees.</b></p>

		<p>Membership issues of IISLA, cannot be moved into Regulations made by the Authority, as such move in fact creates hurdles due to dual control of issues by IRDAI and IISLA. IISLA should be allowed to develop itself into SRO, by devising various 'fit &amp; proper' criterion of its membership related issues and governance; as laid in its M &amp; AOA, Code of Ethics etc.</p>
		<p>Proposal of IRDAI itself indicates a retrograde step, since they want to go back to prior to amended Act of 2015. Several committees have recommended IISLA be developed on the lines of ICAI, as a SRO. Select Committee has studied the issue in depth and have recommended the mandatory membership of IISLA, which is now in place through amended Act 2015. Hence, the proposal of the IRDAI to move the membership issues to Regulations be dropped as such proposal is not placed on logic and have no legs to stand. We are of the opinion that the Parliament decision reflected by the amended Act 2015 has to be respected, and there is no reason as to why the membership issues of IISLA be diluted and complicated by moving it to Regulations.</p>