12 June 2015

To: Mr. Randip Singh Jagpal, Sr. Joint Director
Ms. Mamta Suri, Senior Joint Director
Mr. R.K.Sharma, Joint Director

GFIA Comments on IRDAI, 27 May, 2015 Second Exposure Draft Regulations for Registration and Operations of Branch Offices of Foreign Reinsurers (excluding Lloyd's)

The Global Federation of Insurance Associations (GFIA), which through its 39 member associations represents insurers that account for approximately 87% or more than $4.0 trillion in total annual insurance premiums worldwide, would like to provide comments on the Second Exposure Draft Regulations for Registration and Operations of Branch Offices of Foreign Reinsurers, excluding Lloyd's (the Draft Regulations).

GFIA is very grateful to the IRDAI for the consideration provided to stake holders in the acceptance of many or the comments to the 7April 2015 First Exposure Draft Regulations, as well as the opportunity to provide comments on the 27 May 2015 Second Exposure Draft Regulations. Our comments are intended to provide substantive assistance to the Authority as you work to implement the Draft Regulations in a timely manner so as to achieve the objectives of the Government's legislative intent.

We sincerely appreciate your consideration in providing additional time to us to formally reply and we would be pleased to answer any questions or provide any further assistance to the Authority or the Insurance Advisory Committee.

GFIA contact

Brad Smith, chair GFIA Trade Working Group, BradSmith@acli.com

About the GFIA

Through its 39 member associations, the Global Federation of Insurance Associations (GFIA) represents the interests of insurers and reinsurers in 59 countries. These companies account for around 87% of total insurance premiums worldwide. The GFIA is incorporated in Switzerland and its secretariat is based in Brussels.

Global Federation of Insurance Associations (GFIA)
Secretariat: rue Montoyer 51, 1000 Brussels, Belgium
Tel: +32 2 894 30 81 E-mail: mihai@GFIAinsurance.org
www.GFIAinsurance.org

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FORMAT FOR SUGGESTIONS ON
DRAFT IRDAI (Branch Office of Foreign Reinsurers (excl Lloyd's)) REGULATIONS 2015

Change suggested by	Global Federation of Insurance Associations (GFIA)
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Page No	**Regulations /Annexure**	**Regulation and Sub-Regulation No./ Para Number**	**Comments/Suggestions**	**Reasons**
1	Chapter I	Clause 2 (e) – Net Owned Fund (NOF)	Regarding the NOF of the applicant, we recommend to use the solvency calculation based on the local solvency regulation in the home jurisdiction of the applicant, authorized by the respective financial supervisory authority. For the NOF calculation, investments in subsidiaries should be counted in and not be deducted.	There is a need for clarification of the newly introduced clause on NOF and the terms used. We recommend IRDAI rely on existing determinations in this regard. Deducting investments in subsidiaries would lead to an inaccurate reflection of the financial position of the applicant

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<tr><td>2</td><td>Chapter II</td><td>5: Eligibility norms</td><td>The requirement in:

5(b): Regarding "national regulatory environment", we seek clarification that that this applies to, for example, the state based "national" system in the US.

5 e) that the applicant be in the reinsurance business for at least 10 years should be eliminated or reduced, as the applicant should be judged on financial strength and not years of operation.

Revise 5 c) to state: "The applicant shall be registered in a national regulatory environment and the applicant is subject to a <s>with whom</s></td><td>

Clarity

Current language not prudentially based.

This ensures that an applicant that is subject to the tax regime of one country that has signed such an agreement, but is registered in a different</td></tr>
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			~~the Government of India has signed~~ Double Taxation Avoidance Agreement with India."	country, would meet this requirement.

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<tr><td>2</td><td>Chapter II</td><td>6. "The Authority may take a decision on the number of re-insurers that may be permitted to set-up branches in a year depending on the orderly growth of the insurance and reinsurance market, national interest, or other related aspects."</td><td>We would ask that this direction should be expanded to include a counter balancing sentence stating that "selection criteria for the sequencing of branch application approvals should be transparent and well documented."</td><td>To provide predictability.</td></tr>
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<tr><td>10</td><td>Chapter VI</td><td>28.3 Appointment of Chief Executive Officer and key management personnel</td><td>We would seek consideration by IRDAI that professional reinsurers are permitted to appoint their Chief Executive Officer of foreign branches without having individual remuneration approved by the regulatory authority.</td><td>Support global best practices and address privacy issues of prospect management.</td></tr>
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<tr><td>10</td><td>Chapter VI</td><td>28.5 Outsourcing: "The branch office of foreign reinsurer shall retain the core activities such as underwriting, claims settlement and regulatory compliances and may outsource functions such as back-office servicing, investment, IT, accounts, marketing, human resources, administration and publicity. No other function can be outsourced without the prior approval of the Authority".</td><td>We would seek consideration by IRDAI that professional reinsurers be permitted to rely on a collective system of global and regional centers of excellence in underwriting, claims and compliance to allow for technical specialization which should not be required in every market around the world. IRDAI should seek to foster the voluntary establishment of such centers within India, based on India's highly educated and skilled labor force.</td><td>Support global best practices and Indian technical development and highly skilled jobs.</td></tr>
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11	Chapter VI	28.8 (e) allows the branch office to retrocede to "a reinsurer" having at least a stable outlook from any of the internationally renowned credit rating agencies for the last 5 years.	We seek clarification that the reference to "a reinsurer" includes internal retrocessions to a reinsurer in the branch office's group.	Clarity

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<tr><td>11</td><td>Chapter VI</td><td>Section 28, Point 9 “Order of Preferences for Cession by Indian insurers”</td><td>We would like to clarify whether this is a prescribed order that the Indian insurer must rigidly follow. If so, we believe this does impose some unnecessary and detrimental restrictions on Indian insurers, particularly those that are affiliated with larger international insurance groups (which represent the overwhelming majority of private life insurers operating in the Indian marketplace).

Specifically, there are often intra-group reinsurance arrangements and entities that operate within an international insurance group. These do not normally operate as a true third party reinsurer but rather as a captive reinsurer, but captive only to the insurance activities of the particular insurance group; such captive entity's reinsurance arrangements would only be with the affiliated insurers operating within the insurance group.</td><td>Flexibility</td></tr>
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			Such arrangements often provide preferential commercial rates, speed and efficiency of establishing the relationship (given the intra-group nature of the arrangement) and operational speed and efficiency in the ongoing administration of the reinsurance relationship (speed of invoicing, payments etc, again given the intra-group nature of the arrangement). As such, intra-group reinsurance arrangements could be more beneficial to consumers than cessions to third parties. We believe for the above stated reasons there are circumstances where it would be preferable for the Indian insurer to have the flexibility to establish reinsurance arrangements with the affiliated captive reinsurer rather than going through the other options set out in Section 28, Point 9. On a related point, there are also potential multinational pooling arrangements in which reinsurance through an affiliated captive would facilitate the provision of such multinational pooling benefits to certain clients and this is also a reason in support of flexibility of reinsurance arrangements for the Indian insurer. We would encourage IRDA to consider amending the provision to state the options contained in Section 28, Point 9, but providing flexibility for the Indian insurers to select which option is preferred given their particular requirements	

			and circumstances.	

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11	Chapter VI	28.9(c):	We would request more information with respect to the difference, if any, in the tax rates that would be applicable to reinsurers that set up in the special economic zone versus those that do not.	Predictability.

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NA	The (Life Insurance-Reinsurance) Regulations, 2013		We ask the IRDAI to reconsider the retention limits that are based on the insurer's years of operation imposed in the (Life Insurance-Reinsurance) Regulations, 2013, now that reinsurer branches will be allowed and will be subject to full prudential IRDAI supervision. Rather than setting retention limits, IRDAI should focus on ensuring that the ceding insurer has adopted a prudent approach to the purchase of reinsurance and to the management of risk associated with purchasing reinsurance. The choice of reinsurance cover should be a commercial decision made by management within the overall reinsurance strategy of the ceding insurer. In other words, the cedant should be left to judge whether the risk profile - including the experience, expertise and solvency position - of all the reinsurers to which it cedes is acceptable and in line with its operating strategy.	Consistency