

EXPOSURE DRAFT ON THE FUTURE ROLE OF INDIAN INSTITUTE OF INSURANCE SURVEYORS AND LOSS ASSESSORS (IIISLA)

1. Background

Surveyors and Loss Assessors play an important role in the non-life insurance sector. Insurance companies process claims on the basis of the report of the surveyors. Surveyors are expected to measure, assess and report to the insurer, the financial loss or damage suffered by an insured as a result of loss/damage to his property etc due to the occurrence of one or many of the insured perils. Surveyors and loss assessors are also expected to adjust losses, in addition to commenting whether the claims fall within the policy terms and conditions. Further, surveyors are required to advise the insurer and the insured about loss minimization, loss control, security and safety measures, wherever appropriate, to avoid further losses.

1.1.Requirement of licensing of surveyors—Insurance Act, 1938

With a view to regulating the role of surveyors, the requirement of licensing of surveyors was introduced through an amendment in the Insurance Act, 1938. Section 64 UM (1) (A) of Insurance Act, 1938 provides that no person shall act as a Surveyor or Loss Assessor in respect of General Insurance Business unless he holds a valid licence issued to him by IRDA. Further, the Act and the rules/regulations framed thereunder prescribe the licensing procedure, qualification and code of conduct applicable to the Surveyors and Loss Assessors. Section 64 UM (G) (2) specifies that *"no claim in respect of a loss which has occurred in India and requiring to be paid or settled in India equal to or exceeding Rs.20,000 in value on any policy on insurance.....be admitted for payment or settled by the insurer unless he has obtained a report on the loss that has occurred, from a person who holds a licence under this section to act as a Surveyor and Loss Assessor."* Thus, except for those losses which are below Rs.20,000, the claims for losses cannot be settled without the insurance companies having obtained a report from the Surveyor and Loss Assessor.

Surveyors and loss assessors could be individuals or firms possessing qualifications laid down under the Insurance Act 1938 and rules frames thereunder. The licence will remain in force for 5 years and has to be obtained on payment of fee (64 UC-1-C). Section 64 (D) (UM) (1) prescribes minimum educational and technical qualifications of the surveyors.

The Controller of Insurance was earlier the competent authority for granting licence to the Surveyors and Loss Assessors. After commencement of Insurance Regulatory and Development Authority Act, 1999 (IRDA Act 1999), the competent authority to issue licences and prescribe qualifications for the Surveyors and Loss Assessors is the "Insurance Regulatory and Development Authority (IRDA)".

1.2.Recommendations of the Malhotra Committee

The Malhotra Committee, in its report submitted in January 1994, went into the functioning of Surveyors and Loss Assessors and highlighted a number of lacunae in the system. The Committee had suggested that the system of licensing of surveyors by the Controller of Insurance should be given up as it had not served any useful purpose. The Committee had felt that insurance companies should be free to empanel, in their discretion, surveyors possessing the qualifications laid down in law, and to assign the right surveyor to do the right job. The Malhotra Committee recommended the setting up of an institution of professional surveyors, loss assessors and adjusters with wide participation from survey

professionals. The role of this institution, as envisaged by them, was to have the responsibility to create, nurture and sustain high levels of skills among the survey professionals, to evolve a code of conduct for them. The Committee recommended that it should be mandatory for a prospective surveyor to pass an examination to be conducted by the institution and to work thereafter as an apprentice for two years under a senior surveyor of standing, before obtaining a certificate from the institution to practice the profession of surveyor. The Malhotra Committee stated that the institution's development on desirable lines would be of interest to the insurance regulatory authority, especially insofar as the evolution of a code of conduct and disciplinary matters are concerned. The regulatory authority should develop a promotional association with the institution taking care that this does not diminish the latter's autonomy. After the proposed institution acquires a good standing and reputation, the government should consider granting it an appropriate charter to reinforce its position in the industry.

1.3. IRDA Act, 1999 and IRDA regulations for surveyors and loss assessors

When the IRDA Act was introduced in 1999, amendments as required were carried out in the relevant provisions of the Insurance Act, 1938 to incorporate the role of IRDA. Section 64 UM (BA) provided that every person intending to act as a surveyor and loss assessor after the expiry of a period of one year from the commencement of the IRDA Act, 1999 shall make an application to the Authority as determined by IRDA regulations and further inserted Section 64 UM (1A) which provided that every surveyor and loss assessor shall comply with the code of conduct in respect of their duties, responsibilities and other professional requirements as may be prescribed by the Regulations. IRDA notified Insurance Surveyors and Loss Assessors Licensing Professional Requirement and Code of Conduct Regulation on 28th November, 2000. The regulations *inter alia* include the licensing procedure, constitution of and the role of the Surveyors and Loss Assessors Committee and categorization, duties of Loss Assessors, Code of conduct, practical training etc. In 2001, IRDA carried out an exercise of categorization for existing surveyors, i.e. those who already held licences as on the date of notification of the regulations, by calling for applications for categorisation. All fresh applicants, after the notification of the IRDA regulations, have to go through the procedure of training and examination and are allotted category 'C'.

1.4. Report of the Bhandari Committee

In December, 2002, the Government of India constituted a committee under the chairmanship of Shri.K.N.Bhandari, former Chairman-cum-Managing Director, New India Assurance Co and the then Chairman of General Insurers' (Public Sector) Association (GIPSA) to look into the matter of surveyors' institute. The Bhandari Committee also recommended the promotion of a professional institute of surveyors. It felt that the recommendations of the Malhotra Committee were quite comprehensive and if implemented, would certainly ensure strengthening of this important intermediary in the insurance sector. The Committee therefore thought it fit to recommend an action plan for implementation of the Malhotra Committee's recommendations with certain modifications, in the light of developments in the insurance industry since the publication of the Malhotra Committee's report in 1994. The Bhandari Committee too was of the view that the requirement of licensing of surveyor is not necessary and that IRDA should abolish this forthwith. The Committee explained that the system of licensing does not exist anywhere in the world and did not exist in India too till 1968. It was of the view that the licensing system had stifled the growth of professionalism amongst surveyors.

The Bhandari Committee pointed out that Charter Institutes have been established by law for various professions in India and therefore, surveyors' profession may also be given identical status and recognition. The Committee, infact, noted that similar charter institutes exist elsewhere in the world. The Committee was of the view that the self-regulatory model envisaged can be effectively achieved only if the Institute has statutory support. The Committee stated that the self-regulatory system through Charter Institute will guarantee the independent character of the profession so necessary to inspire confidence amongst the claimants. A statutory body alone can ensure continuous education and training to its members and will aid in achieving international recognition and respect. The charter status will help it to introduce best practices and code of conduct uniformly amongst its members. After deliberating at length on the merits and demerits of institutionalization of the profession of surveyors, the Committee recommended that the Govt, IRDA and the insurance industry should do everything possible to promote the establishment of an institute of surveyors and that IRDA may fix benchmarks for the Institute functioning. The Committee recommended that the Institute must be totally funded by its members and should not depend on any grant from the Govt, IRDA or the industry. The Committee recommended certain objects for the proposed institute which primarily aimed at providing to its members educational and training facilities with the sole objective of upgrading their professional. The Bhandari Committee that the institute of surveyors, to begin with, may be promoted by IRDA in exercise of the powers vested in it as per section 14 of IRDA Act. The IRDA may initially undertake the task of getting an institute formed and established and for that purpose may appoint an adhoc committee of surveyors, invite applications for membership through advertisement in leading newspapers and conduct the election of its office bearers.

While commenting on the role of the proposed institute, the Bhandari Committee stated that the Institute will have to undertake the responsibility of developing integrated courses and training programmes, conduct examination and award qualifications to all those who wish to join the profession. However, for the sake of good order, and to ensure that there is no compromise on the quality of education, the courses, must be vetted and approved by IRDA so that they have due recognition in the industry.

The Bhandari Committee had recommended that IRDA must carry out a comprehensive review of the functioning of the Institute at the end of three years from the date of its establishment and if it satisfied that the affairs of the institute are being carried out in accordance with its objective, it may advise the Govt to confer Charter status to the Institute through an Act of Parliament.

2. Establishment of Indian Institute of Insurance Surveyors and Loss Assessors (IIISLA)

The Govt of India accepted the recommendations of the Bhandari Committee and in October, 2003 advised IRDA regarding the same. The Government noted that IRDA would promote the Institute which will be a self-financing and self-regulated institute, on the model of institutes of Company Secretaries, Chartered Accountants etc. It will set norms and standards, conduct examination, undertake teaching and research and enforce a code of conduct for its members. The Government further suggested that a comprehensive review of the functioning of the Institute be carried out at the end of three years from the date of its establishment and then a decision could be taken to confer a statutory status to the Institute through an Act of Parliament. The Government advised IRDA to take action to promote the institute.

Accordingly, IRDA worked towards promoting such an institute and the Indian Institute of Insurance Surveyors and Loss Assessors(IIISLA)was established in October, 2005, as a professional body (section 25 company) for licensed and categorized surveyors with a view to professionalizing survey and loss assessment in the country.

2.1. Objects of Indian Institute of Insurance Surveyors and Loss Assessors

IIISLA has the following as its main objects:

1. To promote quality in the profession of surveyors through education and training.
2. To organize continuing education and conduct professional examinations.
3. To facilitate introduction of best practices among its members.
4. To disseminate technical information amongst its members to upgrade their skills and knowledge.
5. To update its members on application of new technologies for improving service to the users & consumers.
6. To maintain highest standards of integrity, transparency, discipline and professional conduct.
7. To ensure that survey professionals become fully accountable.
8. To develop and administer a code of conduct & ethics for compliance by its members.
9. To promote research and studies in loss control and minimization techniques and measures and share the same with insurance industry and general public.

IIISLA's ancillary objects are aligned to the main objects. IIISLA does not have 'other' objects.

The establishment of the Institute was followed by the membership process, after which elections to the first council were held. The first elected council took over the affairs of IIISLA in December, 2007. Currently, the second elected council is conducting the affairs of the Institute. Elections to the third council are currently on.

3. The surveyor profession in other jurisdictions:

In other jurisdictions such as UK, USA, Canada, Australia, Japan, Malaysia etc, the surveyor (known as 'loss adjuster' or 'claim adjuster') is an independent professional regulated by an association or institute that functions in the nature of a self-regulatory organization. The loss adjusters have to comply with the examination/training/continuing education requirements and are governed by the code of ethics laid down by these respective organizations.

3.1. UK:

In the United Kingdom, 'Chartered Loss Adjusters' are independent claims specialists who operate under a Royal Charter to investigate, negotiate and agree on the conclusion of insurance and other claims on behalf of insurers and policyholders. However, they usually take instructions from insurers. For smaller and straightforward claims involving domestic or

commercial property, insurance companies would be able to make payments after sending a claims inspector to check upon the circumstances. However, for large claims, they employ the skills of a loss adjuster. Loss adjusters are experts in many fields. In addition to knowledge of insurance and of the area in which they work, they advise the insurance company and the policyholder on repair and replacement techniques. Each loss adjuster may work for many insurance companies. Loss adjusters check the following—that the loss or damage falls within the terms of the insurance policy; that the sums insured on the policy are adequate; that the amounts being claimed are fair and reasonable; that all valid items of claim have been included and nothing omitted. Loss adjusters also advise regarding risk improvement. The loss adjuster reports his findings and recommendations to the insurance company and the insurer.

CILA offers an Associateship (which requires passing of an examination) and after that, Fellowship. Apart from Associate and Fellow, the membership types include Ordinary/Student membership, Licentiate, Diploma and Certified membership. CILA is governed by bye-laws and Code of Conduct.

3.2. Australia:

In Australia (and also New Zealand and some areas of South East Asia and the Pacific region), Chartered Loss Adjusters are impartial professionals who form the 'bridge' between the insurer and the insured and their objective is to establish an outcome that is fair and reasonable to all parties. Typically, a loss adjuster will be engaged to - examine the cause of a loss and apply the terms of the insurance policy to the cause; assess the amount of the loss within the specific terms of the insurance policy; negotiate a claim settlement that is equitable to the various parties; manage expectations—communication, understanding and empathy; pursue recovery from some other party where the opportunity to do so is available. While there are no specific entry requirements to become a loss adjuster, most have a background in insurance and or qualifications in a specialized area such as engineering, law, accounting or science. Members of AICLA (Australasian Institute of Chartered Loss Adjusters) are required to complete a four module Certificate in Loss Adjusting Practice within three years of joining the Institute. Completing the Certificate in Loss Adjusting Practice plus a further four modules entitles the member to the Diploma in Financial Services (Loss Adjusting) which is the academic basis for Associate membership of AICLA and Chartered Loss Adjuster status. There are minimum educational standards to be eligible for the Diploma. AICLA also has CPD and practical experience requirements. The types of memberships are—Provisional; Affiliate; Associate; Fellow; Life; Retired; Honorary. Members are governed by Charter of Objects and Professional Conduct. The Constitution governs the operations of AICLA.

3.3. Canada:

In Canada, many insurance companies have claims departments with staff adjusters, but a great deal of claims handling is done by independent adjusting firms. These range in size from one-person operations to large organizations with hundreds of employers. Adjusting firms offer everything from the normal range of information processing jobs to interesting work involving on-the-spot claims investigation, negotiation and settlement.

In Canada, there is the Canadian Institute of Chartered Loss Adjusters. There are three examinations for CLA designation—one general and two on specialized subjects to be chosen. Membership is of two types—Licentiate and Fellow. The Institute has a Constitution and the members are governed by a Code of Ethics.

There are licensing requirements by the various provinces in Canada - for instance, the province of *Alberta* insists on three levels of examinations before giving a licence; *Nova Scotia* insists on completion of some papers of the Insurance Institute of Canada etc. Provinces also prescribe continuing education requirements.

3.4. USA:

There are three types of adjusters (known as 'Claim Adjusters')—Independent; Public and Insurance staff Adjusters (internal to insurance companies). Insurers appoint Independent Adjusters or have their own internal adjusters. Policyholders can appoint their own claims adjusters (Public Adjusters), who negotiate with Independent Adjusters, if required. Licensing requirements for Public Adjusters vary from state to state

In US, there is the National Institute of Independent Insurance Adjusters (NAIIA). NAIIA has two types of membership. It has a constitution and its members are governed by a Code of Ethics. NAIIA has two types of membership—Full membership; Provisional membership.

3.5. Japan:

Japan has the Loss Adjusting Association of Japan, which mandates completion of exams conducted by The General Insurance Association of Japan. There are three levels of adjusters—1st class loss adjuster; 2nd class loss adjuster and 3rd class loss adjuster.

3.6. Malaysia:

Malaysia has the Association of Malaysian Loss Adjusters (AMLA) which conducts professional loss adjusting examinations. A Diploma or Associateship may be acquired, depending on the examination passed. AMLA is registered under Societies Act and has clear cut objects laid down.

Loss adjusters require a licence from the Insurance Regulator (Bank Negara).

4. Future role of IIISLA

With IIISLA having run for two years, it is time to take stock of the activities vis a vis the role envisaged for the Institute. We are all aware that, at this juncture IIISLA is not carrying out all the functions envisaged for it and its governance is also not fully developed and structured.

A review of the functioning of IIISLA and examination of whether and when IRDA needs to recommend to the Govt regarding conferring a charter status to IIISLA will arise only when

IIISLA carries out all the functions envisaged for it in a full-fledged manner and does so for a reasonable period of time.

This note seeks to make certain propositions regarding the future role of IIISLA and seeks to solicit the views of surveyors, insurers and all other stakeholders before considering any regulatory or other changes on the matter.

1. Before IIISLA's functioning is expanded, should we consider making membership of IIISLA mandatory for all surveyors who are licensed and categorized and wish to carry out survey and loss assessment? Mandatory membership of IIISLA be a pre-requisite for considering a charter status for the Institute in the future, as with such a status, it is envisaged that the licensing system would be replaced by issuance of certificates of practice by the Institute when IIISLA will function as a truly professional body regulating the profession of surveyors and loss assessors, as does the Institute of Chartered Accountants of India, for instance.

It is only when IIISLA carries out the basic functions of training and examination envisaged as two of its main objects can its activities be reviewed and assessed before taking making any recommendations regarding a charter status for it so that it may regulate the profession of survey and loss assessment as a self-regulating institute on the lines of those of the Chartered Accountants, Company Secretaries etc.

2. If the answer is yes, can enforcement of the mandate of compulsory membership be done at the point of renewal of a licence? In other words, membership of IIISLA would be one of the requirements for renewal of a licence for survey and loss assessment.

3. In the event that membership of IIISLA is made mandatory, how can the fee structure be rationalized?

4. Can we then empower IIISLA to carry out functions envisaged for it, such as supervision of the pre-examination training of surveyors, an activity that is currently carried out by IRDA ?

5. Can we also propose that IIISLA shall also conduct examinations for surveyors and declare the results for recruitment of fresh surveyors? Currently this is being done by the Insurance Institute of India on behalf of IRDA, which is co-ordinating the whole process.

6. Can we then propose that IIISLA shall have some role in the process of categorization limited to certification of experience (which would be one of the parameters for upgradation of category) or should an examination also be proposed as a pre-requisite for upgradation of category and IIISLA be assigned to conduct such examination/s ?

5. Restriction on the number of departments:

Whilst on the above, we may also dwell on the issue of restriction on the number of departments that exists today. At present there is a restriction on the number of departments a surveyor and loss assessor could practice in. Can we consider removing such a restriction whereby a surveyor and loss assessor would be able to carry out surveys and loss assessment in all the departments for which he or she had the necessary qualifications and has carried out the training and examination requirements successfully?

Current requirements for qualifying for the various departments:

The requirements are provided for in Notice No: 4 dated 11th February, 2002, issued by the Authority. The details are given below:

There are 7 departments as listed below out of which each applicant is required to choose 3 departments. The Loss of Profits (LOP) department can be chosen in addition by applicants possessing the qualifications such as C.A./ I.C.W.A./ Insurance qualifications not below the level of associate.

S.No	Department	Educational Qualifications*
1.	Fire	B.E./ B.Tech./ B.Sc. (Engg.)/ A.I.M.I.E. or its equivalent, C.A./ I.C.W.A., A.I.I.I./ F.I.I.I.
2.	Marine Cargo	B.E./ B.Tech./ B.Sc. (Engg.)/ A.I.M.I.E. or its equivalent thereof (Marine Engineering/ Naval Architecture), A.I.I.I./ F.I.I.I.
3.	Marine Hull	B.E./ B.Tech./ B.Sc. (Engg.)/ A.I.M.I.E. or its equivalent thereof (Marine Engineering/ Naval Architecture)
4.	Engg.	B.E./ B.Tech./ B.Sc. (Engg.)/ A.I.M.I.E. or its equivalent , Diploma of 3 years duration from a recognised institution or its equivalent thereof
5.	Motor	B.E./ B.Tech./ B.Sc. (Engg.)/ A.I.M.I.E. or its equivalent thereof (Mechanical/ Automobile); Diploma of 3 years duration from a recognised institution or its equivalent thereof ; Associate/ Fellow of Institute of Insurance Surveyors & Loss Assessors
6.	Miscellaneous	B.E./ B.Tech./ B.Sc. (Engg.)/ A.I.M.I.E. or its equivalent; Diploma of 3 years duration from a recognised institution or its equivalent; C.A./ I.C.W.A.; A.I.I.I./ F.I.I.I.; Associate/ Fellow of Institute of Insurance Surveyors & Loss Assessors; Any Other technical Qualification mentioned in Rule 56-A.
7.	LOP	C.A./ I.C.W.A.; A.I.I.I./ F.I.I.I.

*- The qualifications indicated are only indicative and by no means exhaustive.

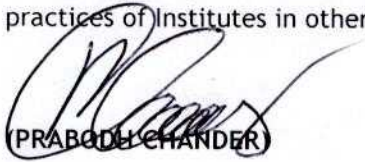
The approved syllabus is the minimum requirement to be understood by the trainees, whereas the trainers are required to train the applicants on all other practical and theoretical aspects of the concerned discipline. The basic introductory syllabus is compulsory for all the applicants and is in addition to the 3 departments/ LOP as referred above. The existing surveyors who desire to upgrade their skills and experience can also seek required education by way of training according to the approved syllabus.

We did not come across restrictions or limitations on the number of departments/segments a loss adjuster may handle, as long as he/she was qualified to handle them.

6. Governance of IIISLA

IIISLA will be able to carry out its role effectively and handle the functions envisaged for it only when it has a proper governance structure in place. It is necessary to ensure that the governance system of IIISLA is put in place and the Institute functions well to carry out the objects of its MOA and contribute well to the development of the profession of survey and loss assessment.

The governance structure of professional bodies such as the Institute of Chartered Accountants of India (ICAI) may be studied and the governance of IISLA improved upon. We may also adopt good practices of Institutes in other jurisdictions/countries.

A handwritten signature in black ink, appearing to read 'Prabodh Chander', is written over a circular stamp. The signature is fluid and cursive.

(PRABODH CHANDER)

EXECUTIVE DIRECTOR