

## **SEBI GIVEN *TIT FOR TAT* BY IRDA FOR UNDUE INDULGENCE IN INSURANCE BUSINESS**

Questions market regulator's showcause to insurers on conceptual, legal, structural grounds.

The Insurance Regulatory and Development Authority (Irda) has said the Securities and Exchange Board of India's (Sebi) notice to insurance companies on unit-linked insurance plans (Ulips) sold by them was "misconceived on conceptual, legal and structural grounds".

Irda's letter to the market regulator comes after the latter's showcause notice to insurance companies last month, asking why they had not taken Sebi's approval to sell Ulips.

In a letter to Sebi Chairman C B Bhave last week, Irda's Deputy Director (Life) Sudipta Bhattachaya pointed out that the regulatory set up in India, which had legal backing, was clearly demarcated.

In its letter, the insurance regulator said the road map for regulation of Ulips by Irda was "well laid down, and settled," and there was "no merit" in the contention that insurers must obtain a certificate of registration from the Sebi for selling these products.

Following the Sebi showcause notice on January 15, life insurers had approached Irda. "While there is an element of market exposure, the insurance component is much higher. The rules are fairly clear and investor interest is clearly protected," said the

CEO of one of the largest life insurance companies. For some private players, Ulips account for close to 90 per cent of new business.

Application of mutual fund rules to Ulips would mean that companies will not be able to pass on the commission to customers, since entry loads have been banned for mutual funds. In addition, the investment and accounting rules are different for Ulips and mutual funds.

Sources close to the development said Irda's letter has pointed out the legal provisions that limited Sebi's jurisdiction to securities and securities related transaction. "What constitutes a security has been defined in the Securities Contract (Regulations) Act, 1956 and insurance contracts are not regulated under these securities laws," it said.

Further, Irda said that structurally, Ulips are distinct from mutual funds and pointed out that the minimum capital requirement for an insurance company was Rs 100 crore and also maintain around 3 per cent as solvency capital. In contrast, an asset management company "is required to manage thousands of crores of assets with just Rs 10 crore".

"Certain similarities in the features of various products issued in the financial world would not necessarily imply regulatory overlap," Irda added.

Asked to comment, a senior Sebi official said: "Ulips are hybrid investment products with insurance cover and since it involves management of funds, Sebi has a role in protecting the interests

of investors... Ulips are fit for regulation under Sebi's mutual fund regulations.”

He, however, added that the Sebi was waiting for replies from insurance companies before deciding on how to regulate them.

In its letter to Sebi, sources said Irda also attached a copy of its mandate, which states that the regulator has to “protect the interest of the holders of insurance policies”.

Sandeep Parekh, a faculty member at the Indian Institute of Management, Ahmadabad and a former Sebi legal advisor said buyers of insurance policies were not sophisticated enough to understand the fine print or the risks associated with such plans.

“Ulips, which are mutual fund products with a fig leaf of insurance, ought to be regulated by Sebi. This is notwithstanding the fact that the insurance regulator already regulates it. There is nothing unusual with more than one regulator regulating a product,” he added and pointed to the joint regulation of currency futures by the Reserve Bank of India and Sebi.

Source: <http://www.business-standard.com/india/news/irda-hits-back-at-sebiulips/385953/>