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RETHINKING REGULATORS: STRATEGIC ASSET FOR BUSINESS GROWTH

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Rethinking Regulators: Strategic Asset for Business Growth

How should regulators deal with business in the middle of the 21st century? Do we even need the regulators?

Regulators began to get popular towards the end of the 20th century, especially among the emerging market economies. These economies were keen to offer certainty of treatment of capital for business enterprises. The advantages the regulators provided were three. They offered a long-term certainty of policies, were able to do so because they were detached from the political executive, which was, in many cases, running enterprises themselves, and finally, were supposed to be staffed by specialists who could understand the demands of the sector they regulated.

These regulatory principles sat well with the idea of globalisation, which demanded a fairly homogenous treatment of capital. While regulatory principles were seemingly universal, the smart use of this arm of state policy was country-specific. Depending on how well they were deployed, economies garnered an advantage against their competitors in the global market. A competitive advantage.

This environment has begun to change. Business in the twenty-first century is often linked with the aims of the political executives. In the prevailing climate of retreat from globalisation, it is open to question whether the principles of regulatory detachment from business hold. Leading companies in each major economy have begun to move almost in lockstep with the political formations. Sometimes it is the companies that are getting into governance.

There are more. Technology, of which machine learning is the most prominent, has vastly altered the precepts of competition. One of those is also the network effect, which offers a massive advantage to the first mover in any sector. The others are climate risks and the consequent changes in the demands of the citizens.

It is in this context that a debate has sprung up in policy circles in India. This debate also asks if India has created too many regulators, and if they are sometimes cutting across sectors. If so, are there reasons to examine how this has happened and the possible remedial steps to be adopted?

The question to ask, then, both globally and in India, is whether regulators are necessary to do business in the model of economic management emerging in most economies. They were meant to provide comfort for the deployment of capital by businesses, shaving off substantial interest costs.

Are these comforts still obtainable from the regulators, or are better state instrumentalities available and emerging to replace them? Is an economy better off operating through regulators, which are offered a degree of independence from the executive and even from the legislature? These are significant questions because the maintenance of regulators clearly imposes a substantial cost on the economy. These costs include orienting laws, creating a judicial framework, making businesses responsive to them and guiding public policy accordingly. Yet, even if assets may run up costs, they should be considered useful if the returns on them are far more than it costs to maintain them.

The answers to these questions will determine how and to what extent the regulatory regime should be promoted in the economy. If it can be shown that regulators matter and add up benefits in the age of AI, one may postulate that they have become strategic assets to deploy to counter competition from other economies and offer a better bargain for the citizens.

Introduction:

The environment for a business enterprise, always changes. The catalysts include i) technology, ii) politics and iii) the changing demands of the consumers they serve. Yet business also needs certainty. A smart enterprise needs to reduce the portfolio of risks to conduct business and raise capital. To raise capital, investors need to feel comfortable about the risk-return trade off. This applies even more when an enterprise moves out of the comfort of its shores and sets up base abroad.

The role of the regulators has been to be aware of the changes and offer enterprises a sense of certainty or clarity in the middle of these changes. The intention was to provide a stable environment where the enterprises could locate the most important changes, identify among those the challenges they prioritised and create a business opportunity to take advantage of those challenges.

"The decisions that economic regulators make also influence the overall investment environment. Economic regulators need to provide a stable investment environment to encourage efficient investment while ensuring that regulated firms provide services efficiently".[1]

The cumulative effect of reduced risk helps an economy significantly. Growth rates move up as investors bring in more capital, ergo more employment in to the economy. All metrics of the economy including inflation, per capita income and even more intangible measures like social capital also benefit.

It is no surprise the demand for regulators spread concomitant with the spread of globalisation in the late 20th century. As companies, especially from the USA and Western Europe began to move into new geographies they asked for policy certainty including that of repatriation of capital.

"From a regulatory point of view, the most important distinction is between measures that affect capital account transactions, which are generally tolerated, and measures that restrict current account transactions, which are generally prohibited. While both measures affect capital flows, their legal regimes are invariably different across all the legal instruments regulating capital flows"[2].

To recognise how recent the spread of the regulatory patina is, just examine the following data. The US Fed got the dual mandate to support maximum sustainable employment as well as price stability only through the Full Employment and Balanced Growth Act of 1978, which amended the Employment Act of 1946. A large swath of the powers of the Federal Communications Commission was established through the Telecommunications Act of 1996. Similarly, at the US Securities and Exchange Commission, the first three-year term for the chairman was completed only in 1961.

The pattern was also fairly recent in the economies of Europe including the UK, France and Germany. It is only to be expected that the developments in other economies, mostly in Asia would be even more recent.

To get a sense of how these have played out, we study the case of a specific regulator in India. The lessons from these could be generalised to most other sectors.

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[1] The Role Of Economic Regulators In The Governance Of Infrastructure © OECD 2017 Executive Summary; https://www.oecd.org/content/dam/oecd/en/publications/reports/2017/03/the-role-of-economic-regulators-in-the-governance-of-infrastructure_g1g77b02/9789264272804-en.pdf

[2] Lupo Pasini, F. 2011. The International Regulatory Regime on Capital Flows. ADBI Working Paper 338. Tokyo: Asian Development Bank Institute; page 3; Available: http://www.adbi.org/workingpaper/2011/12/30/4838.intl.regulatory.capital.flows.trade.services/

We take the case study of the Insurance and Regulatory Development Authority of India. (IRDAI)

Following the RN Malhotra committee report on insurance in 1994, the government of India moved to open up the till then nationalised sector. The committee under the former Governor of RBI had recommended that the private sector be permitted to enter the insurance industry. The report made out a case for foreign companies to be allowed to enter the sector by floating Indian companies, preferably as a joint venture with domestic partners.

Based on those recommendations, in 1999, Irdai was constituted by the Union Ministry of Finance as an autonomous body to regulate and develop the insurance industry. In April 2000, Parliament passed the law making Irdai a statutory body. The key objectives of the regulator included the promotion of competition, enhancing customer satisfaction through increased consumer choice and offering lower premiums, while at the same time ensuring the financial security of the insurance market.

By August 2000, Irdai had opened up the market for competition inviting applications for registration as insurance companies. This included foreign companies too, which were allowed equity of up to 26percent. Irdai drew its authority to frame subordinate regulations under Section 114A of the Insurance Act, 1938. This is the critical clause under which the regulator has continued to issue a vast number of regulations, ranging from registration of companies for carrying on insurance business to protection of policyholders 'interests at the other end.

Before we proceed further, note that the Irdai, as a financial regulator, was

A) Incorporated in the 20th century
B) The regulator opened offices in response to the demand to open up the insurance business to the private sector
C) Take advantage of the new technologies emerging to offer wider spread and lower premiums, offering consumers a wider basket of choices

The proposal to offer a 26 per cent stake to foreign insurers was the classic regulatory play. The rules of the game were insulated from the political uncertainties to offer a long-term play to the companies.

Let us examine the regulator from four perspectives

1. Legal challenges
2. Ease of Regulations
3. Impact on Business
4. Impact on Consumers

Legal challenges:

In the Indian regulatory environment, getting the requisite laws passed for the regulators to operate has been relatively straightforward. Once the laws were passed, the regulators have essayed their role within the ambit of these laws. Their own regulations have had the force of delegated legislations.

This has also been made possible because most of the laws relating to the sectors had in built provisions for setting up a regulator. So the Indian Parliament gave a wide latitude to the regulators to decide on how to modernise the sector, bring in competition and protect the interests of the consumers. An example is the Electricity Act of 2003, under which the Central Electricity Regulatory Commission was established.

The exception was the insurance sector. The Insurance Act of 1938 was older and had detailed provisions to guide the sector. As a result, every time the regulator wished to bring in changes, the law had to be amended. For instance, the periodic raising of the limit for foreign direct investment, unlike other sectors, had to be referred back to Parliament because of this rigidity. This created regulatory uncertainty and made businesses circumspect about putting more finance into the sector. It even made it difficult bringing in regulations for consumer-friendly moves like making the health insurance business more flexible.

Recognising this straitjacket, several provisions of the Act had to be rewritten in 2015. As a Government press note issued after the amendment noted; "The passage of the Insurance Laws (Amendment) Bill, 2015 paved the way for major reform related amendments in the Insurance Act, 1938, the General Insurance Business (Nationalization) Act, 1972 and the Insurance Regulatory and Development Authority (IRDA) Act, 1999…The amendment will remove archaic and redundant provisions in the legislations and incorporates certain provisions to provide Insurance Regulatory and Development Authority of India (IRDAI) with the flexibility to discharge its functions more effectively and efficiently"[3]. (sic)

Ease of Regulations:

From this perspective, Ease of Regulations means how adroitly the regulator has developed a legal framework that helps companies to enter and expand in the sector. From the Indian perspective, this also means dealing with conflicts of interest.

To insulate the market from the reach of the political executive, one of the first steps Irdai took was to separate the governance of the state-run insurance companies from the government. In December 2000, the structure of the General Insurance Corporation of India was dismantled. Instead, there were now to be four state-run independent companies competing among themselves and with the emerging private sector companies. The market was broadened to make the General Insurance Corporation into a national re-insurer. This, too was a technological play. Re-insurance, a technologically sophisticated business, got an Indian face.

However, while this proved relatively easy in the non-life space, the life insurance business was trickier. Irdai had to wait till 2022 to change the legal scaffolding of Life Insurance Corporation (LIC). The company was established by an Act of Parliament, which predated the establishment of Irdai. As a result, a lot of changes in the capital structure of LIC had to be made before the company could offer a public issue. This was, however, most significant. We shall examine this subject again when dealing with the "impact on consumers".

Suffice it to note here that the delays in the dismantling of the privileged status of LIC had a cascading impact. Reforms in the life insurance sector have trailed those in the non-life.

Episode 1:

In the non-life space, Irdai stopped the practice among the non-life companies, mostly state-run then, to set the same premiums as per a Tariff Advisory Committee. This practice had killed any competition in the sector, and it was a relief when it was abolished. This was an anti-competitive behaviour that would have been frowned upon by the CCI.

[3] Press Information Bureau, Government of India, Ministry of Finance, March 13, 2015 https://www.pib.gov.in/newsite/printrelease.aspx?relid=117043

The dismantling of these practices, created its share of problems. Without the support of such an agreed premium structure, the industry found itself without any guardrails. Problems emerged as companies resorted to rampant discounts, taking down premiums to absurd levels. It was suspected that the insurance companies would go bankrupt, putting at risk the financial safety of lakhs of insured people. The spectre was held up as evidence of regulatory failure.

What was not realised was that it was the presence of Irdai that forced the companies in the sector to make their undercutting transparent. It also allowed the Irdai to come up with solutions that used technology and the force of law to make the companies retrace their perilous undercutting.

The response by the Irdai was to develop the practice of actuaries. These professionals were necessary for any insurance company to employ to provide the guardrails of how underwriting should be practised. This involved setting up the training infrastructure, the system of qualifications and related issues.

There are many more, but it will be good enough to note that with each year, the regulator has gotten stronger. A piquant situation developed when there was possibly the first public face-off between two regulators. This was Irdai and the Securities and Exchange Board of India.

By 2008, the expanding ranks of insurance companies had found it necessary to expand their profitability. One of the means they discovered was to sell a hybrid insurance cum investment policy with a tax saving option, known as ULIP (unit linked insurance product). It rapidly caught the attention of customers as an alternative to mutual funds. Data shows that between 2008-10, the total investment into ULIPs was Rs 135,256 crore, with the number of policies sold at 71.97 million. This was multiple of the investment corpus of the mutual fund industry. (We examine those issues in our detailed paper on Irdai)

The dispute was one of the reasons for the Union Finance Ministry to set up the Financial Services Legislative Reforms Commission or FSLRC. By offering the insurance companies strong support in the dispute, the Irdai bolstered their confidence.

Episode 2

A series of far-reaching regulatory changes were put into motion in the period 2022-25, in response to several developments. The number of insurance companies in the economy had expanded, they had brought in vast pools of capital, but the benefits in terms of benefits for the citizens, especially those from the weaker income group, were not visible.

The Irdai, as the regulator, began a series of reforms to address this shortcoming. The exercise began with Irdai taking up a comprehensive review of the regulatory framework to promote the ease of doing business by reducing the compliance burden. Yet the goal of protecting of policyholders ' interests was kept paramount. The initiative represented a significant shift towards adopting global best practices, emphasising proportionality, materiality, and a comprehensive analysis of the activities of regulated entities.

In the process, all the regulations, circulars and guidelines pertaining to the insurance sector were re-evaluted and examined for their relevance, agility, simplicity and adaptability, along with the associated burden and the cost of
compliance. One of the key elements of the evaluation exercise was wide consultations with stakeholders in particular and with the public in general. These consultations "imparted critical inputs

and deep insights resulting in better understanding of the ground realities, the needs of the sector and the transformations required therein"[4].

This extensive and participative process led to the condensing of the number of regulations pertaining to insurers and intermediaries to almost a third—28 from 78 as on 31st March, 2024. Similarly, to reduce compliance burden and to enhance operational efficiencies in the insurance sector, a huge number— 167 circulars were repealed. Irdai issues an average of 45 circulars a year, so this meant erasing about three years of work.

Further, 82 returns have been rationalised and a one-stop reference for all regulatory returns to be filed with the regulator was provided for. The revised framework is principle-based and allows sufficient flexibility to insurers with necessary guardrails, reducing their compliance cost. A sunset clause of three years has been added to ensure regular /periodic review and
incorporate dynamism into the regulatory landscape.

These principles-based regulations are now ten. An inspection of these principles shows they have been brought in after a thorough review of the insurance sector's regulatory framework. They cover critical areas or what can be called typical pain points, such as protecting policyholders 'interests, obligations towards rural and social sectors, motor Third Party insurance, electronic insurance marketplace –popularly known as 'Bima Sugam', unified norms for all category of insurance products, operation of foreign reinsurance branches, and aspects relating to registration of insurance companies, actuarial practices, finance, investment, expenses of management including commission and corporate governance.

To sum up these changes amalgamate rules into what a regulator is essentially supposed to offer. A principle-based regulatory framework. It has decluttered the Irdai table, allowing it to consider a Risk-Based Supervisory (RBS) framework for the Indian insurance industry and for consumer protection.

Essentially, as the scale of the two Episodes shows, these exercises are impossible tasks for any other branch of the government, particularly to be executed on a piecemeal basis. The presence of the regulators provides a set of orderly conditions for the sector to develop. In the two decades since 2000, the Irdai has issued 169 regulations, each of which can be broadly described as subordinate legislation. For a 24-year period, this works out to a frequency of 7 per year or one every two months. All of them became necessary to issue as the sector expanded (see Annexure 1).

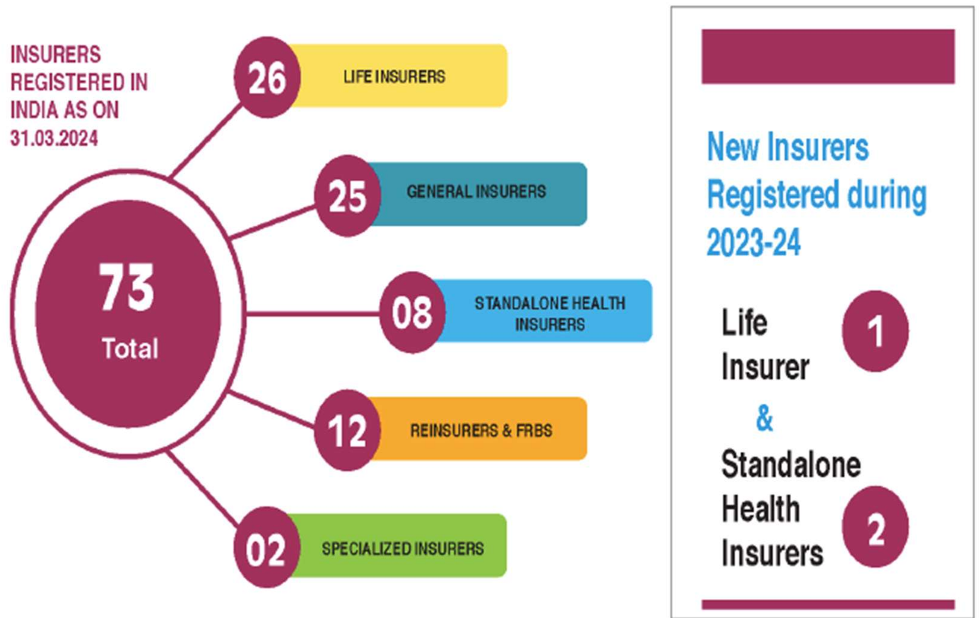
Impact on Business:

By 2024 there was 73 companies in the sector which write life, non-life, health and agriculture insurance policies, besides of course, re-insurance. The total insurance premium generated is Rs 11,19,613 crore and total claims paid out is Rs 7,66,172 crore, which is 3.46 percent of the Indian GDP. (December 2024). The domestic market has expanded at a CAGR of 17percent over the past two decades. By the end of FY26, the total premium is projected to reach Rs. 19,30,290 crore, or roughly $ 222 billion.

This is the fifth largest insurance market in the world. Yet in the year 2000, except the government run companies, none of the others were in business. It is easy to say that none of these would have been possible without the ease of bringing in new regulations, the sustained amendments in them and

[4] Annual report, Irdai 2023-24 its col. page 62 https://irdai.gov.in/document-detail?documentId=6436847

Insurance sector in India

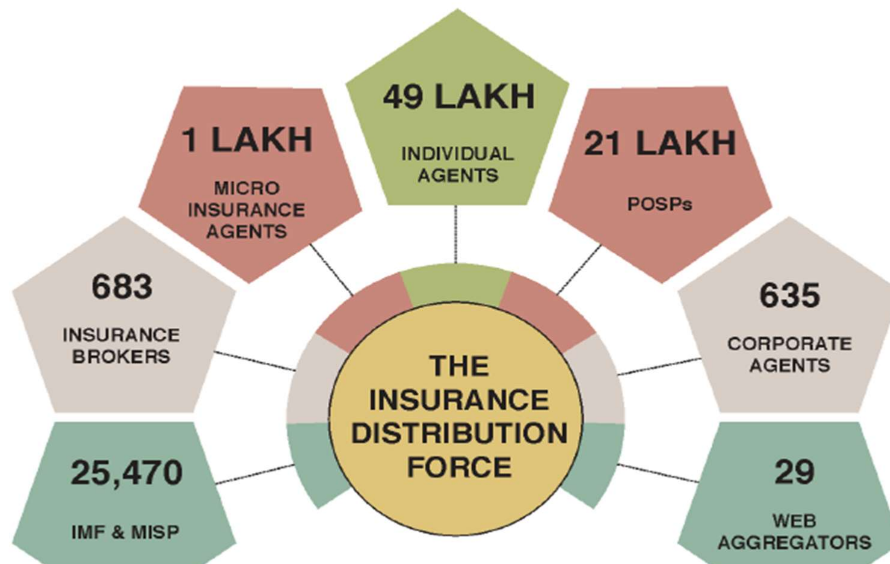


more. These developments have both, opened new avenues for growth as well as allow scope to the insurers to take their business up to speed with the latest technology.

Source: Irdai Annual Report—2023-24

But those numbers, impressive as they are, do not do justice to the expansion of the sector. It is the sales force of insurance agents, points of sale presence, insurance brokers and insurance market players who provide
the cutting edge for the delivery of business in the sector, for the citizens.

Insurance distribution at a glance



Source: Irdai Annual Report—2023-24

There are, of course, sore spots. The most visible is the shallow insurance penetration in India at 3.7 per cent against the average of 7 per cent for mature economies. Some of the shallowness is also due to the low per capita income of India, which makes the buying of an insurance policy, even for health cover, a costly exercise for families.

There are numerous other data points like assets under management or the total insurance premium, all of which demonstrate that the sector has prospered with the nurturing of the regulator.

To understand the specific impact on business, let us examine how a very new area of insurance business has been impacted through regulatory actions. This is Re-Insurance. The government of India decided that India should emerge as a reinsurance hub in Asia. This was signing on to a business opportunity, but only if the regulator understood each step of the sequence.

Reinsurance is a most consequential tool for insurers to manage earnings and tamp down balance sheet volatility. Reinsurance offers insurers the scope to limit their exposure to large risks and resultant catastrophic events.

An early step taken in this context was just after the market was opened. India did not have a reinsurance company till GIC Re was transformed from a holding company to one in the reorganisation of the state-run non-life companies in 2000. The more notable changes happened much later with the enactment of the Insurance Laws (Amendment) Act, 2015. The Act facilitated the entry of major global reinsurers into the Indian market through their branches.

To make the new architecture viable Irdai brought in (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations 2015, and the IRDAI (Lloyd's India) Regulations 2016. The regulations allowed that, other the Indian reinsurers, essentially GIC Re, foreign reinsurance branches (FRBs) registered with Irdai could also provide this business. The regulator ramped up this architecture further by allowing Insurance Offices of foreign companies located in the Gift City and small cross-border reinsurers to also enter the Indian market. These were Irdai (Re-insurance) Regulations 2018.

To make the process easier, Irdai notified the Irdai (Re-insurance (Amendment) Regulations in August 2023. These regulatory changes were thus taken in sequence, like steps in a dance form. Notice, these were all regulations and so within the ambit of the Irdai. The Amendment Regulations brought changes to the earlier regulations 2018, mandating the minimum retention of 50 per cent of the business within India of the Indian reinsurance business underwritten. A new and simplified Order of Preference was instituted for a business to be hawked by a company. Instead of a six-tier system, it was streamlined to four levels. Simultaneously, the compliance and reporting requirements were simplified. The Amendment Regulations also introduced relaxations in terms of the manner and format of the regulatory filings as well as the records to be maintained by Indian Insurers.

Finally, the minimum capital requirement for opening a new office of a foreign reinsurer was lowered to Rs 50 crore, halving it from the earlier limit. As the Irdai itself noted "The Amendment Regulations signify a significant shift in India's reinsurance landscape, fostering a more favourable business

environment and positioning India as a leading global reinsurance hub”[5]. Eleven of the world’s leading reinsurance companies have established bases in India by this decade.

The results! Foreign reinsurers have rapidly expanded their market presence in India, with their share, in terms of gross written premiums (GWP), almost doubling from 25.8 per cent in 2019 to 49 per cent in 2023 (financial year ending March 2024). Their market share is estimated to surpass 50 per cent in 2025, according to Global Data, a leading data and analytics company. Of course, there is a concentration risk. The market share of the top four foreign reinsurers increased from 19.4 per cent in 2019 to 44.4 per cent in 2023. The analysis adds that this expansion is “attributed to the supportive regulatory environment, competitive pricing, flexible terms compared to General Insurance Corporation of India (GIC Re), a growing economy, and increasing insurance penetration”. In other words a very strong endorsement of the regulatory steps.

Impact on Consumers:

When we turn to the impact on the consumers, the picture is less than effusive. But let’s take the positives, first. Chart 2 shows the impact on consumers. In the pie chart of insurance distribution workforce, there is the category of micro agents, who number about a lakh. They sell insurance policies to the low-income groups with small ticket sizes. Just in FY24, a total of 17.8 crore lives were insured under this category of group micro insurance business. Remember, these agents are not tied to only one monolithic insurance company. It is impossible to conceive of such a scale of operation by a government ministry, by say, apportioning business across companies, nurturing those micro agents and generating confidence among the people in the small towns and sometimes semi-rural areas to do so.

What the numbers therefore describe is a sampler of a vast network that expands insurance coverage across the country. We can then clearly discern that the explosion in the number of insurance companies, of intermediaries and even of the populace seeking insurance needs a regulator to mediate.

One of the negative aspect is that of mis-selling of insurance policies. Mis-selling in the Indian insurance sec10tor “is a significant concern that involves the sale 10of insurance products to consumers without proper disclosure of terms, conditions or suitability. Insurers are encouraged to tackle the problem of mis-selling by conducting a root cause analysis to identify the underlying causes. To prevent or reduce mis-selling, insurers have been advised to implement strategies such as assessing product suitability, implementing distribution channel-specific controls and developing a plan to address mis-selling grievances, including carrying out a root cause analysis on periodic basis. That 24 years into the business, Iraqi has to make this assessment is an unnerving admission of a huge reputation and risk problem in the sector.

Seen against the profile of the total business of the sector, the numbers are not huge. The number of life insurance claims related grievances per thousand claims reported was about 12, whereas the same in the case of general and health insurance was about 0.6. But perception matters.

The problem is most acute in the health insurance business. Early in 2025, the CEO of UnitedHealth Insurance in the USA was shot dead by an alleged dissatisfied customer, which speaks volumes about the regulatory risk in the sector.

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[5] Insurance Sector, India: https://www.ibef.org/industry/insurance-sector-india

Yet the route to solve the problem is also through the regulator. Particularly so as these numbers also make it clear that it is only a regulator without skin in the game who can afford to issue circulars and legislations which will be supported by every insurance company or a distribution intermediary.

It is appropriate, then to ask a counterfactual. Would the developments have gone through if there were no Irdai and the sector was instead nurtured by a combination of Parliament and the finance ministry as the executive? If the finance ministry had to issue each of them, it would have needed to drop every other sector and only focus on the sector. It would have needed to listen to the perspective of each of the 73 companies before bringing those out, check up with the other ministries concerned and then got down to the task of issuing those.

And all the while, since it is also the largest shareholder of five of the biggest insurance companies, the steps would have created a legal conundrum. Ministry executives sit on the board of all the five insurance companies. There was thus a direct conflict of interest with the other 68 companies.

The counterfactual is easy to answer in another way, too. It might seem that the rapid pace of issue of circulars and subordinate legislations over the years and the stagnant insurance penetration may be militating against the aim of offering certainty of policies. Yet despite the numbers, notice that all circulars and subordinate legislations have been issued under one common Insurance Act of 1938 and the Irdai Act of 1999. So the source of the legislation was not disturbed. The enthusiasm of both domestic and foreign companies in opening businesses in the sector and finally the demand to raise the FDI limit for the sector to 100 per cent, is a testimony that the regulatory experiment has succeeded.

Regulators as strategic assets:

Yet the 21st century has introduced several challenges to the regulatory model, cutting across sectors. Of them, two are the most critical. The first of these is the network effect and the role of Machine Learning. The second is the sharply increasing alignment of business with the dominant political ideology of the country. Both these trends are happening globally.

Business in the twenty-first century is often getting linked with the aims of the political executives. In the prevailing climate of retreat from globalisation, it is open to question if the principles of regulatory detachment from business, hold. Leading companies in each major economy have begun to move almost in lockstep with the political formations. Sometimes it is the companies that are getting into governance.

For instance, one of the earliest manifestations of the growing political alignment in any economy came from the USA. The bailout of AIG by the then-US administration happened in 2008 at the depths of the global financial crisis. There was no clear reason why the bailout happened except that the company had strong support in the US Congress.

By 2025, countries are developing payment mechanisms that sidestep Swift. The supply chain shocks are encouraging unconventional responses like the deployment of navies to escort commercial shipping fleets. The race for critical minerals among countries and for the setting up of semiconductor design and fabrication units is another manifestation of the same tendencies. The governments of the day are wedging themselves into the economic life of their citizens. To take advantage of these new trends and also, at times to shield themselves from competition, companies are aligning themselves vigorously with the political executive. In that sort of a tight embrace, it is difficult for a regulator to suggest that the efficiency of the market must segregate between a winner and a loser. It is impossible

to ask if a health or a life insurer in India will be allowed to go down under when they are seen as most essential to the perceived well-being of the economy. So measurement of the efficiency of the capital becomes a difficult exercise in such an environment.

Consequently, it will be very difficult for the regulator to admit to strong political baggage and yet enforce financial discipline for one or more companies. In sectors like electricity distribution, where the companies are often parastatal, the impact on the financial probity can be easily guessed.

Even more than the impact of the steps taken in the Global Financial Meltdown of 2008, has been the recent tie-up (and split) between the fortunes of the current US Presidency and that of corporate interests. It is a no-brainer that corporate interests will be a powerful ballast to a political party in a democracy.

However, the sine qua non of the regulatory structure was that it is apolitical. The essence of globalisation in the 20th century was the felt need for an apolitical environment where capital could be deployed solely based on risks of the market, existing technology and the share of competition, devoid of any extraneous risks like that of political expropriation, sanctions and so on.
The rise of the regulator was meant to create an environment where this congruence did not become overbearing. The regulator was meant to create a space for other

There are more. Technology, of which machine learning is the most prominent, has vastly altered the precepts of competition. One of those is also the network effect, which offers a massive advantage to the first mover in any sector. The others are climate risks and the consequent changes in the demands of the citizens.

Taken together, citizens are goaded to respond to governments much more frequently than the 20th-century model of governance implied. This has also become possible as technology has made it easier for the governed and those governing to be in contact with each other.

These risks, which may be described as unknown risks, have invaded all businesses. Companies from the West cannot invest in countries that face sanctions, or wars disturb the supply chains. Financial plumbing, like international transfer of money through banks like Swift, has itself been weaponised. In this context, the guidance of business by a regulator might have to sweep in the political currents. The laws themselves may have to be rewritten.

Let us examine the state of play of the insurance sector via this prism. The first is the inflow of foreign capital. The Irdai has signed on to an amendment of the Insurance Act to allow foreign direct investment in insurance companies to reach 100 per cent.

This is epochal, even more than the fraught decision to allow 26 per cent FDI in the sector in the year 2000, because nations are retreating into isolation in insurance, like many other sectors. The first is the fear that a foreign company could be a front for money to roll in from unfriendly countries. Blocking those is often beyond the remit of the regulator and has to be decided politically. The other is often a non-economic consideration, that the financial safety of the citizens of the country may not be decided upon by a foreign-owned company.

The other is the government's impatience with the supposedly slow speed at which insurance is spreading in the country. The union government has itself devised umbrella schemes to reduce the gap in the coverage that citizens can get. These are PM-JAY : Pradhan Mantri Jan Arogya Yojana, PMFBY : Pradhan Mantri Fasal Bima Yojana, PMJDY : Pradhan Mantri Jan Dhan Yojana, PMJJBY

: Pradhan Mantri Jeevan Jyoti Bima Yojana, PMSBY : Pradhan Mantri Suraksha Bima Yojana, PMVVY : Pradhan Mantri Vaya Vandana Yojana

Once the contours of the schemes have been framed by the government, the insurance companies have been left with the sole role of marketing those. The regulator's role is more emasculated in the circumstances. The usual rules to judge the viability of the schemes have not been undertaken, nor has the regulator the option to alter the terms of the schemes to offer the underwriters a chance to create policies that do not ravage their balance sheet. Instead, it simply notes, "To enable greater coverage of lives, the proportion of lives stipulated as social sector obligation has been raised from 0.5-5 per cent to 10 per cent of all lives covered for all Life, General and Standalone Health insurers. This shift widens the social sector insurance net significantly, bringing more lives under its protection[6]".

Similarly, the revised Motor Third Party Regulations move away from focusing on each insurer's Gross Direct Premium, and instead emphasise the market share of the insurer and growth in the number of insured vehicles. Each company has been assigned a year-on-year target percentage increase in renewed policies of insured vehicles and coverage of uninsured vehicles. These targets basically divvy up the uninsured pie and ask the companies to cover those.

While companies have been laggards in selling third-party insurance, several other factors limit them, too. But as the target is a political one, the regulator feels constrained in offering leeway to the companies in meeting the targets.

Moving on to a general issue vis-à-vis the regulators, it is clear that these examples could be multiplied. They are infact, becoming the norm. Overall they demonstrate the supposed emasculation of the role of the regulators. The developments point instead to the government's keenness to direct the economic outcome of sectors.

In this context, would the political executive align with the regulator to punish a recalcitrant company in a financial meltdown? Imagine what could happen if the financial solvency of a company goes below 150. Yet the company may have met the political goals splendidly. For instance, should space programs be subject to risk risk-return ratio, when the nation is also determined to use the domain as a defence multiplier. The risks are clear, but the solutions are not easy to offer.

The scale of the convulsions is so high that even conventional boardroom issues like ESG and DEI, which were considered fairly straightforward, where the regulators had begun to issue directions, have taken sharp tones.

If the political executive and the legislature in this new environment still feel convinced to let the regulator guide the sectors, take unpleasant decisions, and ask for expansion of their remit, it can be safely assumed that the regulators have become strategic assets.

[6]Annual Report 2023-24.pdf, page 71, Box II.2; https://irdai.gov.in/document-detail?documentId=6436847