To 06/02/2013

Mr P Chidambaram,
Honourable Union Finance Minister,
Government of India,
NEW DELHI

Respected Sir,

Subject- ‘The Insurance Laws (Amendment) Bill 2008 with special reference to the Proposed Amendments to Sec 40, S40 (2), 40 (a), S 44 and S 45 of Insurance Act 1938, Vide Clause 48, 49, 57 and 58.

Respected Sir,

We the Life Insurance Agents’ Federation of India have been consistently working since 1964 to improve the policy conditions, policyholders’ benefits, agents’ socio-economic status, and the working of the industry with the end objective that if the Country and its people shall flourish it shall be our inclusive growth. We have achieved a lot in all the targeted dimensions by persuasive dialogue and resultant cooperation of the LIC OF INDIA- once the Industry in itself and now to be dwarfed as one of the Industry but whose client base may dwarf the population of some of the countries of the world and whose annual growth rate of 8-9 percent for last 2-3 decades may dwarf the AGR of so many economies of the world. The figures need not be put before this learned Committee but it is our humble duty to reiterate before you that this was achieved by the toil of the Agents’ and the sacrifice of the policy holders of the early days of the L I C Of India.

With this perspective ; we append below our observations and suggestions on those proposed amendments in the Insurance Act 1938 vide this bill i.e The Insurance Laws (Amendment) Bill 2008 ;henceforth to be mentioned as Insurance Laws Amendment Bill 2008, that have a direct bearing to the Agents and/ or policy holders of the Life Insurance Corporation Of India. Once these Amendments are passed as proposed, they would consequently pave way for Lakhs of Insurance Agents to be out of the books of the Insurance Company and also the inflow of Insurance Business will be reduced drastically. Sir, we humbly pray you for a sympathetic, thoughtful consideration on our submission before inking recommendations on the subject.

We have **reservations** on the amendments, proposed on the following Sections of The Insurance Act 1938 viz. Sec(s) 40, 40A, 44 and 45; vide **Clause no. 48, 49 , 57 and 58 of the subject Insurance Laws Amendment Bill 2008.**

Clause 48 of the Bill seeks to substitute the Sections 38, 39, and Sec 40 of the I A 1938. The Sec 38 and 39 are of legal nature defining protection to the assignees and nominees of the policyholder while **Sec 40** is albeit of administrative nature but gives economic protection to the class of persons working as Insurance Agents and defines their remuneration. It is left to you Sir, to peep into the mind of the writer of the bill when he clears the prevailing haziness in the rights of the nominees and assignees of the policyholder but, for reasons known to him, wipes off the protection to the Agents enjoyed by them for last 72 years and frees the Insurer from the limitations of the expenses under the head Commission.

The **sub sec (2A) of Sec 40** has a provision to protect the policyholders orphaned by their procuring Agents either due to termination by the Insurer for non-fulfillment of minimum business to maintain Agency / or death or for any other reason and allows to extend service to such policyholders by another Agent and encourages the other Agent by allowing half of the commission that was otherwise payable to the procuring Agent. This practice has been giving relief for long to the large class of orphan policyholders created by the wrong system of appointment of Agents in the Industry. Once our demand used to be that the full renewal commission should be extended to the Agent who opted the client for future servicing ; but considering the interest of the Insurer and the view that the **Renewal Commission is** actually the **deferred compensation out of the First Commission, that the** Insurer is supposed to pay at once and one time but - due to economical reasons and dynamics of the Industry - cannot settle at the instance of procurement of the business by the Agent , we reconciled to the pattern as per the Sec 40(2).

Thus by this amendment the class of Agents, and the persistency of the Agency as a career, shall suffer by losing the statutory protection given to them by the Insurance Act 1938.Consequently the policyholders shall also be victim to this amendment.

Sir, due to vested interest a campaign with the help of media is now on to malign the noble profession of Insurance Agency like –miss-selling high commissions etc. and the perception has been coined that the insurance agents are garnering a very high percentage of commissions on the business procured. It is a matter of pity to point it out before you that the Average Income of the Life Insurance Agents today is around Rs.60000 /- per annum. Had this profession be so easy to earn, the lakhs of Life Insurance agents been not out of books of Insurance companies every year.

For these and other reasons, we strongly request to retain Sec 40(2) and Sec 40(A) of the Insurance Act 1938.

Clause 49 of the bill seeks to omit section **40A of the Insurance Act 1938** so as to omit the provisions relating to limitation of expenditure on commission. This also provides for the payment of commission to insurance agents at the rates specified in the act. By omission of this clause, there is no clarity as to the commission payable to the agents. Further there is no alternative provision made in the proposed bill.

Our view is that this section defines the upper limit that any insurance company can spend on commissions to their Agents and should remain as it is. If this amendment takes place, not only demoralize the agency force but also lakhs of agents will be deprived of the statutory protection embedded in the act. **Therefore we strongly request you to retain the Sec 40A of the Insurance Act 1938 only and the Regulator should not be empowered.**

Clause 57 of the Insurance Laws Amendment Bill 2008 proposes to **wipe off the Sec 44 of the IA 1938.**
Sir, this Section is the foundation of the Agency Career in our country. The Sec owes its existence on the acceptance of the following facts—

1.The Insurer needs a person to propagate his life insurance plan , but simultaneously wants him to share the risk of underwriting i.e probe into the buyer's personal habits, his family history, his medical history, moral hazard etc on the grounds of misstatement in which Insurers decline the Death Claims and terminate the soliciting person .

2. It is universally accepted fact that selling of non tangibles and in particular the life insurance is one of the toughest jobs and wisely said that life insurance is always sold and seldom bought. So the person who opts to solicit the insurance – one of the toughest jobs - has simultaneously to share the risk of underwriting, leniency in which may lead to his termination.

3. It is also universally accepted by the Insurers all over the world that the job of this person needs more than average remuneration as incentive, but that could not be cut from the first premium for the reason of sustaining the business, and hence the conception, of a part compensation as the First Commission and deferring the balance of payment in installments to be paid out of the renewal Premiums and named as Renewal Commission, was born.

4. It is also widely observed that only 45-50% of policies remain in force till maturity or it can be said that 50% of the policies sold lapse before the full term. Amongst many, one of the reasons of lapsation is the Insurer himself. This excludes death cases. Lapsed policy means no renewal premium paid and so, no renewal commission.

THUS the soliciting Agent has to bear a) the pains of doing the toughest selling b) the risk of primary underwriting c) accept his compensation in future installments as renewal commission d) losing his renewal income due to death of the policyholder or lapsing of the policy.

5. It is also accepted by the Actuaries that if prudently run, a policy starts adding to the profits of the Life Insurer only after its fifth instilment been paid.

Considering these, amongst so many others, the prudent Members of the Council while framing the Insurance Act 1938 introduced the Sec 44.

44 (1), apparently to protect the Agent from losing his earned but deferred income and inserting subsections (a) ,(b) and (c) to protect the Insurers from the liability of payment of renewal commission not before the latent period of 5 years.

44 (2), apparently to protect the heirs of the Agent from losing their rights to the renewal commission
Thus you will kindly observe that a stand which was accepted after a prolonged discussion by our learned forefathers in the Council and stands true on all the legal, social and economic reasoning is going to be negated by omission of this Sec 44.

The reminiscence of the deletion of this Sec 44 shall be felt by the country in the year 2020-25, when we are destined to be the 3rd growing economy behind USA and CHINA. The economic prosperity shall come with its own problems of intra mismatch, big population, high unemployment etc. We shall be a Democratic country of 150 crore people of which about 50 Crore shall be in the impatient age group of 20-30 and seeking for employment. We advocate for the **Insurance Agency as a whole time career and as a respectable source of employment**, provided the profession gets protection by such Sections as Sec 44 and the Govt takes other measures towards professionalizing the Agency Career (for which we have a separate panel of people working on the scheme).

We strongly request you to stop the omission of the Sec 44 of the IA 1938 and scrap the Clause 57 of the ILAB 2008.

Clause 58 of the ILAB 2008 seeks to extend this period as for Sec 45 of the IA 1938 to 5 years during which the Policy can be called to question. It can be easily inferred that this extension shall give more leeway to the above kind of insurers to repudiate higher percentage of death claims raised by the mostly shy semi literate illiterate inwardly looking and mostly exploited class and widows; to whose benefit, the conception of Life Insurance was born. Besides, the LICI has withstood for the last 57 years and didn't face any significant pinch on account of the existing practice.

Sir, **Hence, we pray to stop the amendment to Sec 45 0f the IA 1938 as proposed in the Clause 58 of the ILAB 2008**.

We have been given an opportunity to present our views before the Parliamentary Standing Committee on Finance in December 2009 wherein the Committee has also heard our views.

Sir, By transferring these very important Financial Powers (which are with the Parliament for a valid reason for the past 72 years) to the Regulator – there are possibilities of these provisions being misused either deliberately or through ignorance or under influence. Besides, the proposed Amendments will adversely affect Agents, Policy Holders and also the Health of the Insurance Industry. With regard to the Changes and Omissions recommended in the above said sections, maintaining Status Quo is ideal at the current juncture for the Insurance Industry as well as the Vast Number of Insuring Public of the Country.

Sir, These are our humble and unbiased submissions in the interest of the Insuring public and Insurance Industry in India.

We also further request you to keep us always involved in the process, since we are your frontline soldiers of the Insurance Industry who can feel and understand the pulse of the People of the Country from closer proximity.

Thanking you once again for inviting us for personal hearing and all the pains that you may have to take for the same.

Sincerely yours,

S B SREENIVASA CHARY
PRESIDENT

SHYAMAL CHAKRABORTY
SECRETARY GENERAL