



iBROKER

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This Issue

STRANDED IN SUEZ CANAL

The insurance industry is waiting with bated breath at the direction from which claims can arise out of this canal blockage and, of course, what could be the enormity of the exposure.



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Message from president's Desk

Shot one take two

Welcome to the second edition of iBroker.

It looks like we are back to square one on the anniversary of the first lockdown and we as a broking community are resilient as ever. My thoughts and prayers to all my fellow brokers to come out of this grim situation stronger and healthier.

We as an industry have closed the F.Y. 20-21 on a high note, we should be proud that we have fared better than most of the industries in the country, with a growth of 5% in General Insurance and 7.5% in Life Insurance. I am sure we as brokers would have a better growth story due to our sheer levels of commitment, service capability and apt advice during these difficult times. The General Insurance Industry accounted a premium million shy of 2 trillion and whereas the figures of the Life Insurance Industry clocked a premium of 2.78 trillion. We as brokers have been predominantly focusing on General Insurance but it is time to look at Life Insurance segment which has tremendous potential and can be the Blue Ocean Strategy for many of us.

The Annual Summit held virtually in January 2021 was well received by our members, the insurers, the regulator and all our other stake holders. It was attended by 730 participants from across the globe with more than 300,000 minutes collectively consumed in a day. This indeed turned out to be grand success, I would like to thank our fraternity members, who contributed with all their time and effort to make this event a success.

Our association has launched social media handles on LinkedIn, Facebook, Twitter and Instagram. These social media handles have created a stir and have been appreciated by all stakeholders. I believe it will go a long way in promoting brokers and their contribution to the community. I request all of our members to follow these handles to receive the latest information and contribute. This campaign is to let the world know on who we are, what we do and how we do it.

I am pleased to share that we have become a member of the Council of Asia Pacific Brokers Association (CAPIBA) which is currently lead by the chief of NIBA (Australia). This membership will help us to understand the trends of the emerging and developed markets.

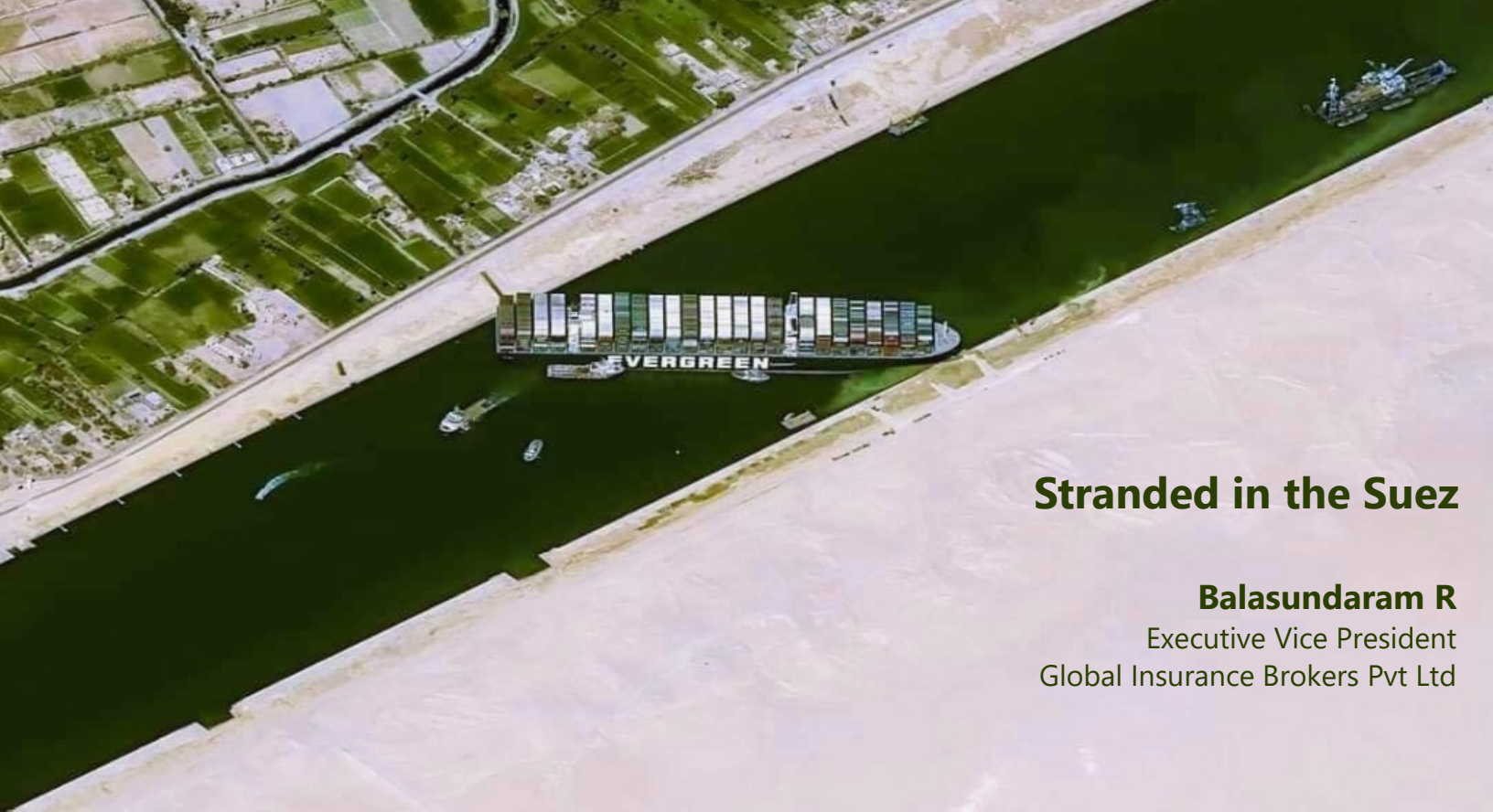
Today we are launching a new logo for our association, as we start to refresh our look. I know we loved our old logo, and look, but our industry has grown from its teens to its twenties, and with that said, change is inevitable, and is something to be embraced. **The new logo depicts that we are completely institutional and well balanced. It indicates association of people and their growth and shows signs of a well-managed and composed organisation.**

I look forward to active contribution from all our members such as the sharing of articles on various topics that can benefit the whole fraternity. We also welcome feedback to improve our next edition of this magazine.

At IBAI our priority continues to be advocating for members' interest and concerns as we concentrate on evolving issues facing our client, our profession and our industry.

Sumit Bohra

President IBAI



Stranded in the Suez

Balasundaram R

Executive Vice President
Global Insurance Brokers Pvt Ltd

The Suez Canal is blocked by a giant container ship, Evergreen — This news has been all over the print and electronic media .

The business world, which is slowly recovering from the pandemic, is in a state of panic after this incident. Experts estimate the losses to be in billions of dollars for insurers and the loss of trade per day due to the blockage at close to US\$ 9 billion. Images show a giant vessel laden with containers (around 20,000 TEUs) hitting the right bank of the canal, going off-course and getting stranded, blocking both the north-south & south-north lanes of the canal, bringing traffic to a halt

Before we attempt to unravel the types of losses this incident will throw up, who will pay for these losses, and how soon the salvaging operations will re-float the vessel succeed, we need to understand why the Suez Canal is so critical to world trade. First things first, many are under the impression that the name of the stranded vessel is Evergreen. No, Evergreen Marine is the name of the Taiwanese firm which operates the vessel. The name of the ill-fated vessel is

EVER GIVEN, built-in 2018 and owned by a Japanese company. She was on a voyage from China to Rotterdam.

The Suez Canal, one of the most important shipping lanes in the world, is a man-made or artificial waterway connecting the Red Sea with the Mediterranean Sea. It provides the shortest sea route from the Atlantic to the Indian Ocean or puts it differently from Europe, North America to Asia & vice-versa. What if the canal was not there, as was the case before 1869? Vessels on the Asia-Europe-North America route had to go round the Cape of Good Hope, past the west coast of Africa, resulting in a long-distance and duration of the voyage. To put matters in perspective, the distance from Singapore to Rotterdam going around the Cape of Good Hope is around 11755 nautical miles, while through the Suez Canal, it would be 8300 nautical miles. The canal is around 193 kilometres long, has eight bends, some lakes, by-passes or loop

lanes to hold vessels coming from the opposite side since the maximum width of the canal is 225 meters only. As vessels up to DWT 240,000 are allowed through the canal, navigational support, periodical dredging, and general maintenance and security of the waters and the banks become necessary. This responsibility is taken care of by the Suez Canal Authority (SCA), which the Egyptian government now owns. The Suez Canal separates Africa & Asia and runs from Port Suez at the Red Sea end to Port Said at the Mediterranean end.

The SCA collects tolls from vessels using the canal, and the rates depend on the size of the vessel, number of TEUs on board, loaded or empty and many other parameters. A vessel like the Ever Given carrying 20,000 TEUs has to pay a toll of around the US \$ 700,000. Certainly not cheap. Vessels move in convoys which are created and monitored by the SCA. Typically three convoys move in a day, both north-south & south-north put together. The Time taken for a vessel to traverse the entire length of the canal is between 16-18 hours. As per the last count, 19,000 vessels used the canal during a year.

Estimates say that cargo valued at around US\$ 9 billion passes through the canal daily. If the blockage had not addressed quickly, one can imagine the compounding effect each passing day will have on supply chains around the world. Crude oil & petroleum products from the Middle-east to Europe pass through Suez Canal. If the tankers are stuck, the enormity of the problem in every sphere of economic activity will be apparent. That's not all; China, India, Vietnam, Taiwan and other Asian countries are large exporters of cargo ranging from electronics, electronic parts, textiles, etc., to European nations & beyond, mainly through the Suez Canal. Asian nations where economic

activity has bounced back (after last years' lockdowns) far quicker than in North America or Europe are already facing a huge issue – Shortage of box containers. Only 40% of the containers which went to North America last year have come back. Why? No cargo can be sent to Asia, and sending back empty boxes is not a viable option. This delay in the Suez Canal will add additional days of delay and aggravate the 'container shortage' problem.

The insurance industry is waiting with bated breath at the direction from which claims can arise out of this canal blockage and, of course, what could be the enormity of the exposure. A few areas where claims are sure to come in are:

Already salvors have been appointed, and salvaging of the vessel Ever Given is underway. Dredging and use of multiple tugs are underway in a bid to re-float the vessel. There is every possibility that some of the cargo may have to be offloaded to lighten the vessel. Hence the declaration of General Average and demand for GA & Salvage guarantee from cargo interests is a certainty. No cargo is said to have been damaged or lost as of now.

The Hull & machinery would also have been damaged, and there could be claims under the H & M policy.

The JCB which looks so puny before **EVER GIVEN** & also the damaged bank



Since the vessel had damaged the bank of the canal, there could be a claim for damages against the ship by the Suez Canal Authority, which has to be paid for by the vessel's P & I Club.

The SCA may also claim (subject to the Time deductible) for Business Interruption losses under their policy, which would be like a package policy covering their assets, liabilities & business interruption arising out of specified incidents/caused by specific perils.

The SCA may be receiving too many liability claims from the various vessels that had paid hefty tolls but are still stuck due to the canal blockage. As close to 200 vessels are stuck, this liability may be pretty substantial. In turn, SCA will attempt to recoup these losses from the P & I Club of the stranded vessel. It can be long-drawn battles with regards to admissibility, quantum and available policy limits.

Perishable cargo could face issues, as cargo insurers will read out the Delay exclusion and decline liability. Possibly such cargo liabilities will also be lodged against the SCA.

The charterers, unless they had built into their charter parties something on 'Delay', at least 'due to specified circumstances, have to continue to pay hire charges as the vessel continues to be on hire. This may vary from one vessel to another.

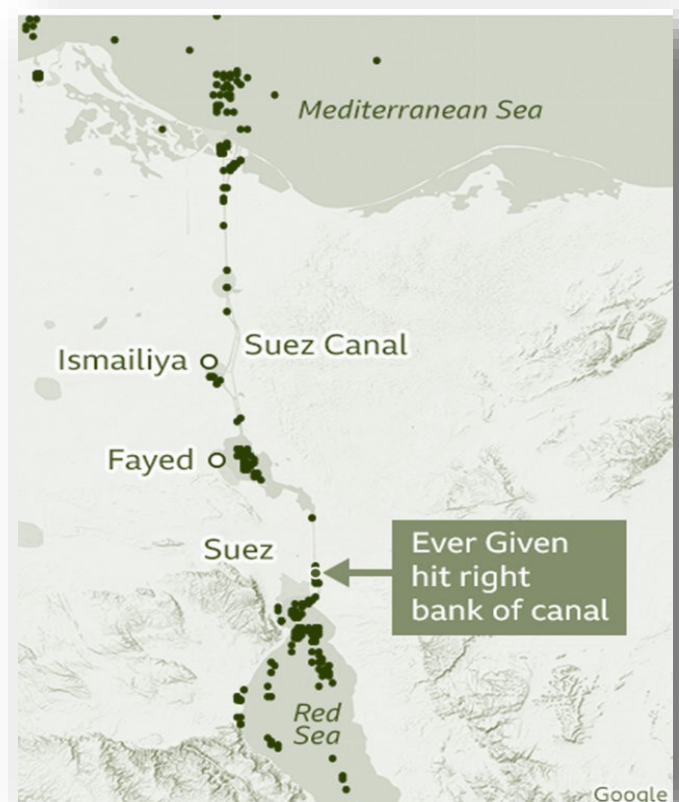
There could be cancellation of specific cargo orders in any of the stuck vessels, which will not be payable under cargo insurance. The claims may then be lodged by the cargo interests on the vessel/ SCA.

Exciting days ahead – Loss adjustors, Average adjustors and maritime lawyers will have their hands full. Strangely, no cargo loss, no significant H & M loss, yet the losses to the insurance industry from the EVER GIVEN incident is likely to be enormous.

Is India likely to be impacted? As of now, the impact of this incident will be minimal, but if the blockage continues for days/weeks, pressure could mount for specific industries that depend on Europe & the USA for critical

raw materials/parts or for those industries whose turnovers are driven by exports to these countries. Further, once the blockage is removed, it may still take at least a week for all the piled-up vessels to pass through the canal. Some ship bound for India are among them, and it is expected that there could be pressure for a while on the Indian ports on the west coast as many of these vessels may seek berthing together/in rapid succession. The Indian government has already chalked out a comprehensive action plan that includes re-routing some ships around the Cape of Good Hope, focus on perishable cargo & honouring existing freight rates.

A once-in-a-lifetime type of event this. A vessel that had neither sunk nor lost any cargo overboard or herself suffered severe damage, yet the losses to insurers could be substantial without counting the consequential economic losses. Is there a parallel to Covid-19, which by itself does not cause damage to cargo but the attendant lockdowns & restrictions did, mostly consequential? A wake-up call for the whole world.





The Truth about Surveyor & Investigator

Surveyors are appointed under the statutory provisions, and they are the link between the Insurer and the insured when the question of settlement of loss or damage arises

The Supreme Court in the case Sri Venkateswara Syndicate vs Oriental Insurance Co. Ltd. & Anr (2009) went into the issue:

10)Section 64-UM (1) of the (Insurance) Act speaks of licensing of Surveyors and loss assessors. We (SC) are not very much concerned with this sub-section. Subsection (2) mandates that no claim in respect of a loss which has occurred in India and requiring to be paid in India equal to or exceeding twenty thousand rupees in value on any policy of insurance be admitted for payment unless the Insurer obtains a report on the loss that has occurred from a person who holds a license issued under sub-section (1) of Section 64 UM of the Act as a Surveyor or loss assessor. However, the proviso to sub-section (2) retains the right of the Insurer to settle a claim for an amount different from that assessed by the Surveyor. This proviso impliedly permits an insurer to obtain a second or further report, where considered appropriate or reasonable in the circumstances of a case, based upon which the claim could be settled for a different amount than as assessed earlier.

In the above case, the Joint Surveyors did not wish to clarify certain matters asked by the Insurer about the purchases and stated that the Insurer might carry out any investigation as necessary. Hence Insurer thought it fit to appoint Chartered Accountants for verification of the accounts of the insured. The SC noted in para 16) Given certain discrepancies in the joint report of the Joint Surveyors, the Insurer was constrained to appoint a Chartered Accountant for verification of the books of

accounts of the insured, to ascertain the actual quantum of loss caused by fire accident in the business place of the appellant. In para 22, the SC states: "Surveyors are appointed under the statutory provisions, and they are the link between the Insurer and the insured when the question of settlement of loss or damage arises. The Surveyor's report could become the basis for the settlement of a claim by the Insurer regarding the loss suffered by the insured.

There is no disputing that the insurance company appoints the Surveyor/Surveyors under the provisions of the Insurance Act, and their reports are to be given due importance. One should have sufficient grounds not to

Case I : Strange Stories of Surveyor Appointments

Ashwani Textiles v. Oriental Insurance Co. Ltd & Anr. (NCDRC 2002)

It was held that without complying with all the requirements of Section 64 UM of the Insurance Act, 1938, the appointment of the 4th Surveyor was unfair and unauthorised.

In another SC case in 2010, it was noted that surveyors could be creative because of the legal opinion obtained from Retd. Chief Justice of the SC, Mr Justice Y.V. Chandrachud, agreed that the second surveyor/investigator "had attempted to kill a cat disguising it as a tiger". The SC added the question regarding the quantum of loss suffered by the insured on the fire. As commented by the Joint Surveyors and Chief Justice Chandrachud and subsequently by the National Commission, the almost identical amounts, barring a few rupees, arrived at by the Insurer and the Surveyor speak volumes of the exercise carried out by the Surveyor was a wholly cursory investigation, which has quite aptly been described as "tailor-made".

agree with the assessment made by them. We also add that, under this Section, the insurance company cannot go on appointing Surveyors one after another to get a tailor-made report to the satisfaction of the concerned officer of the insurance company. If the Surveyors report is not acceptable for any reason, the Insurer has to give a valid reason for not accepting the report. Scheme of Section 64-UM particularly, of sub-sections (2), (3) and (4), would show that the Insurer cannot appoint a second surveyor just as a matter of course. If for any valid reason the report of the Surveyor is not acceptable to the Insurer may be for the reason if there are inherent defects, if it is found to be arbitrary, excessive, exaggerated etc., it must specify cogent reasons, without which it is not free to appoint second Surveyor or Surveyors till it gets a report which would satisfy its interest. Alternatively, it can be stated that there must be sufficient ground to disagree with the findings of Surveyor/Surveyors. There is no prohibition in the Insurance Act for the appointment of the second Surveyor by the Insurance Company. Still, while doing so, the insurance company has to give satisfactory reasons for not accepting the report of the first Surveyor and the need to appoint the second Surveyor."

What may be seen is that usually, the second Surveyor will not have a complete survey to be done, but only a part on which the Insurer may need more clarity.

Appointing Investigators by the Insurer The Supreme Court of India National Insurance Co. Ltd vs Harjeet Rice Mills (2005) found that the Police in a further police investigation had reported that the earlier investigation was superficial, that the cause of the fire has to be adequately investigated, and, in the circumstances, a fresh investigation was called. The SC noted in para 6, "We are of the view that the State Commission should have

allowed the appellant before us to prove the investigation report. Section 64UM of the Insurance Act cannot stand in the way of the insurance company in establishing that the claim was a fraud on the company or that it was a case of deliberately causing a fire to lay the foundation for an insurance claim."

Case II : Strange Stories of Surveyor Appointments

Before Delhi High Court 2010

The insured was in the business of Red Sanders Wood. They had a fire policy for the stock of Red Sanders Wood stored in a godown. The total sum insured was Rs. 37 crores. In 1996, an accidental fire broke out at the godown. According to the Insurer, till the date of loss, the insured had not filed income-tax or sales tax returns related to the Red Sanders Wood since its export was banned during that period, and there were no earnings on that score. No market value could therefore be attributed to the stock lying in the godown. The insured had claimed Rs. 40.17 crores.

The Insurer appointed two surveyors as joint surveyors and a retired Additional IG (Prisons) investigator. The Joint Surveyors submitted their final survey report assessing the loss at Rs.1.43 crores. However, the Insurer repudiated the claim on the ground of non-compliance with the terms and conditions of the fire policy, based on the investigator's report. Aggrieved by the repudiation of its claims, the insured filed an appeal before the IRDA, and the IRDA, on its part, appointed two surveyors for re-survey and loss assessment. One of these surveyors assessed the claim for Rs.21.01 crore, but the other only for Rs. 2.21 crores. IRDAI ordered the Insurer to pay Rs. 2.21 as assessed by the second Surveyor.

Aggrieved by the above order, the Insurer filed an appeal under Section 110H of the Insurance Act to the Appellate Authority in the Ministry of Finance, who then directed the IRDAI to appoint yet another set of surveyors. The IRDAI appointed another set of surveyors, and they assessed the loss at Rs. 7.95crs. The IRDA rejected this assessment and directed the Insurer to pay the earlier amount of Rs. 2.21 Crs. However, the Appellate Authority overruled it and ordered the Insurer to pay Rs. 7.95 Crs as assessed by the last set of surveyors.

Principles of Claim Settlement as per Courts



1. In Claims, the Insurer is always Bound

An insurer's assessment of a claim has a different character from assessing risk at the underwriting (pre-contract stage). In deciding whether to accept the risk and on what terms, the Insurer has complete discretion. There are no legal standards by which his decision can be assessed. It is a pure question of judgment, which a prudent insurer may make for good reasons or bad in his commercial interest.

However, when deciding whether to admit and pay a claim, the Insurer's position is very different. He has no discretion because he is already bound. The only question before him is whether to acknowledge liability if it exists, whether or not he realises it. Thus, in reality, he has to take the view that has to be in line with what a court would decide. (U.K. Supreme Court: *Versloot Dredging B.V. and another v HDI Gerling Industrie Versicherung AG and others*, [2016])

2. Rules Regarding Interpretation of Policy

21. The principles relating to the interpretation of insurance policies are well settled and not in dispute. At the same time, the provisions of the policy must be read and interpreted in such a manner to give effect to the reasonable expectations of all the parties, including the insured and the beneficiaries. It is also well settled that coverage provisions should be interpreted broadly, and if there is any

ambiguity, the same should be resolved in favour of the insured. On the other hand, the exclusion clauses must be read narrowly. The policy and its components must be read as a whole and given a meaning that furthers the parties' expectations and the business realities. According to us (S.C.), the entire policy should be understood and examined in such a manner, and when that is done, the interpretation becomes a commercially sensible interpretation. (Supreme Court of India *Canara Bank vs M/S United India Insurance Co. Ltd* on 6 February 2020)

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|---|---|
| A | provisions of the policy must be read and interpreted to give effect to the reasonable expectations of all the parties, including the insured and the beneficiaries |
| B | coverage provisions should be interpreted broadly |
| C | exclusion clauses must be read narrowly |
| D | the entire policy should be understood and examined in such a manner, and when that is done, the interpretation becomes a commercially sensible interpretation |

3. Repudiation Cannot be based on Technical or Hyper Technical Reasons

a. The Insurer cannot rely on hyper-technical or unfair interpretation of the policy terms to avoid or repudiate coverage. In the case ' M/S. OPG Energy (P) Ltd vs The New India Assurance Company' (2018) the Madras H.C., said that "the insurer cannot be allowed to take shelter under a Hyper Technical Interpretation of the Insurance Contract and contend that it is not liable for the damage caused." In this case, the Insurer repudiated a storm claim as the wind speed did not reach the Beaufort scale measurements (wind with a speed of above 88 km per hour)

b. Supreme Court of India, in the case Om Prakash vs Reliance General Insurance & Anr. 2017 dealt with a claim where the vehicle was stolen on 23.03.2010 (at 9 pm in the night). The claimant lodged the FIR immediately on 24.03.2010, but the insurance claim on 31.03.2010. In the appeal against repudiation, S.C. found that the claimant had provided compelling reasons for the delay of 8 days in lodging the claim. It further found that the word "immediately" cannot be construed narrowly to deprive the claimant of the benefit of the settlement of a genuine claim, mainly when the delay was explained. It further held that rejection of the claim on purely technical grounds and in a mechanical manner would result in a loss of confidence of policyholders in the insurance industry. It also held that the condition regarding the delay should not be a shelter to repudiate the insurance claims that have been otherwise proved to be genuine.

c. Supreme Court of India, Gurshinder Singh vs Sriram General Insurance Co. Ltd. (2020). In this case, on 28.10.2010, the insured's tractor was stolen, and the FIR was lodged on the same day. However, the claim was submitted to the Insurer only on 15.12.2010. It was rejected on

the ground that intimation was given belatedly after 52 days. When examining the terms of the policy, the Court found that Condition No. 1 of the Standard Form for Commercial Vehicles Package Policy has to be divided into two parts. The perusal of the first part of Condition No. 1 would reveal that it provides that a notice shall be given in writing to the company immediately upon the occurrence of any accidental loss or damage'. It was seen that the wordings used in this part would reveal that all the things which are required to be done under this part are related to an occurrence of an accident (damage to the vehicle).

The SC found that the second part of Condition No. 1 deals with the 'theft or criminal act other than the accident'. It provides that in case of theft or criminal act, which may be the subject of a claim under the policy, the insured shall give immediate notice to the police and cooperate with the company to secure the offender's conviction. The object behind providing prompt information to the police appears that if the police are immediately informed about the theft or any criminal act, the police machinery can be set in motion and steps for recovery of the vehicle could be expedited. In a case of theft, the insurance company or a surveyor would have a limited role. Only when the police cannot trace and recover the vehicle and the police lodge the final report after the car is not outlined, the insured would be needing to push for the claim.

The SC said that the term 'cooperate' used in the policy needs to be assessed based on the facts and circumstances. While evaluating the 'duty to cooperate for the insured, among other things, the Court

should regard those breaches by the insured that are prejudicial to the insurance company. Usually, a mere delay in informing the Insurer, when the same was already informed to the law enforcement authorities, cannot violate the insured's 'duty to cooperate. The SC concurred with the view taken in Om Prakash (above) that repudiating based on some delay in intimating the Insurer about the occurrence of the theft would be taking a hyper-technical view.

d. There has to be a fundamental breach of the policy to repudiate a Claim – Supreme court

The Supreme Court (S.C.) of India, in the case of Lakhmi Chand vs Reliance General Insurance (2016), went into the owner of a Tata Motors goods carrying vehicle insured with the above Insurer. The vehicle met with an accident on 11.02.2010 because of the rash and negligent driving of another vehicle. In this regard, an FIR dated 11.02.2010 was registered with the concerned Police Station for the offence of that vehicle, punishable under Sections 279, 337, 304A and 427 of the Indian Penal Code.

The Surveyor appointed to assess the damage caused, assessed the damage caused to the vehicle at Rs.90,000/-. In addition to this, the Insurer appointed M/s Innovation Auto Risk Claim Manager for investigation. According to the investigator's report, five passengers were travelling in the goods-carrying vehicle, though the seating capacity of the vehicle as per the registration certificate was only 1+1. Based on the findings of this report, the Insurer rejected the claim of the appellant because the loss did not fall within the scope and purview of the insurance policy.

In the cases that followed, both the State Commission and the National Commission dismissed the case of the insured, stating that there has been a violation of the terms and conditions of the policy as the insured had allowed six passengers to travel in the vehicle when the permitted load was only 1+1. The Supreme Court examined the matter and found that the National Commission did not consider the judgment of S.C. in the case of B.V. Nagaraju v. Oriental Insurance Co. Ltd Divisional Officer, Hassan (1996). In that case, the Insurer had taken the defence that the vehicle in question was carrying more passengers than the permitted capacity in terms of the policy at the time of the accident. The said plea of the insurance company was rejected as the mere fact of carrying more passengers than the permitted seating capacity in the goods carrying vehicle by the insured does not amount to a fundamental breach of the terms and conditions of the policy to allow the Insurer to reject its liability towards the damage caused to the vehicle. Further in the S.C. case: National Insurance Company Ltd. v. Swaran Singh & Ors (2004), a three-judge bench of S.C. has held as under:- "49. The Insurer must establish such a breach on the part of the insured to show that not only the insured used or caused or permitted to be used the vehicle in breach of the act but also that the damage he suffered flowed from the breach."



The Court noted that the Insurer must establish the breach by compelling evidence. If an insurer fails to prove that there has been a breach of policy conditions on the part of the insured, the Insurer cannot be absolved of its liability. In both *National Insurance Co. Ltd vs Swaran Singh & Ors* (2004) and *Oriental Insurance Company Ltd. v. Meena Variyal, S.C.* held as under:- "The insurance company to avoid liability, must not only establish the available defence raised in the concerned proceeding but must also establish breach on the part of the owner of the vehicle for which the burden of proof would rest with the insurance company. Whether such a burden had been discharged would depend upon the facts and circumstances of each case. Even when the Insurer can prove breach on the part of the insured concerning a policy condition, the Insurer would not be allowed to avoid its liability towards the insured unless the said breach of condition is so fundamental as to be found to have contributed to the cause of the accident."

4. Surveyor Cannot Interpret the Policy

Supreme Court of India *Vikram Greentech (I) Ltd. & Anr vs New India Assurance Co. Ltd* (2009):16. A document like a proposal form is a commercial document, and being an integral part of the policy, reference to proposal form may not only be appropriate but rather essential. However, the surveyors' report cannot be taken aid of, nor can it furnish the basis for constructing a policy. Such outside assistance for the construction of insurance policy is impermissible.

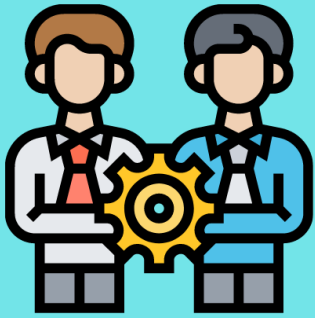
S.C. in the case *New India Assurance Company Ltd vs M/S Zuari Industries Ltd. & Ors* (2009) said: "13. The other surveyor P.C. Gandhi Associates has stated that "Fire of such a short duration cannot be called a `sustained fire' as

contemplated under the policy". 14. In our opinion, the duration of the fire is not relevant. As long as a fire caused the damage, the claim is maintainable, even if the fire is for a fraction of a second. The term `Fire' in clause (1) of the Fire Policy `C' is not qualified by the word 'sustained'."

5. Full and Final Satisfaction Discharge Voucher

The SC in the case *National Insurance Co. Ltd vs M/S. Boghara Polyfab Pvt.Ltd* (2008) said that: "25. In several insurance claim cases arising under Consumer Protection Act, 1986, this Court has held that if a complainant/ claimant satisfies the consumer forum that discharge vouchers were obtained by fraud, coercion, undue influence etc., they should be ignored. Still, if they were found to be voluntary, the claimant would be bound by it, resulting in rejection of the complaint. In *United India Insurance Co. Ltd., vs Ajmer Singh Cotton & General Mills - 1999* (6) SCC 400, this Court held: "The mere execution of the discharge voucher would not always deprive the consumer of preferring claim concerning the deficiency in service or consequential benefits arising out of the amount paid in default of the service rendered. Despite the execution of the discharge voucher, the consumer may be in a position to satisfy the Tribunal or the Commission under the act that such discharge voucher or receipt had been obtained from him under the circumstances which can be termed as fraudulent or exercise of undue influence or by misrepresentation or the like."

All these indicate that as the UKSC stated, the Insurer must stand in the shoes of the Court whenever a view is taken on a claim, however small.



Duties/Onus in respect of Claims by the Insured-Insurer

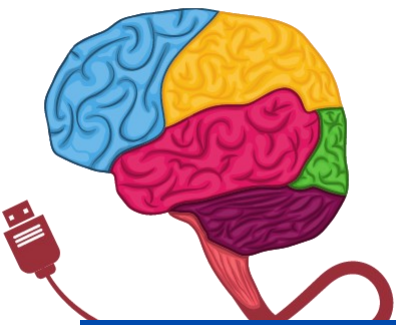
IRDAI Protection of Policyholders' Interests Regulations, 2017- Section 15 specifies various duties to the Insurer/Surveyor. There is only one specific direct duty for the insured (sec. 1) and indirect duties under the advice of the Insurer and surveyor, such as providing essential documents to prove the claim and other duties relating to claim cooperation. However, there may be duties/obligations in the policy contract which must be complied.

Section 1 of IRDAI Protection of Policyholders' Interests Regulations, 2017

Duties of Insurer	Duties of the Insured/ <i>Advice to Insured</i>
<ul style="list-style-type: none"> ◆ On receipt of the notice, the Insurer shall respond immediately and give clear information to the insured on the procedures that he should follow ◆ If a surveyor has to be appointed, it shall do so immediately, at the latest within 72 hours intimation received. ◆ An insurer shall communicate the details of the appointment of the surveyor, including the role, duties and responsibilities of the surveyor, to the insured by letter, email or any other electronic form immediately after the appointment of the surveyor. 	<ul style="list-style-type: none"> ◆ An insured or the claimant shall give notice to the Insurer at the earliest or within such extended time as may be allowed by the Insurer. ◆ Insured may seek clear information if not provided under the terms of this section. ◆ Insured may seek all the details from the Insurer in terms of this section.

Section 2 of IRDAI Protection of Policyholders' Interests Regulations, 2017

Duties of Insurer	Duties of the Insured/ <i>Advice to Insured</i>
<ul style="list-style-type: none"> ◆ The insurer/surveyor shall, within seven days of the claim intimation, inform the insured / claimant of the essential documents and other requirements that the claimant should submit in support of the claim. ◆ Where documents are available in the public domain or with a public authority, the surveyor/insurer shall obtain them. 	<ul style="list-style-type: none"> ◆ If the insured feels that the surveyor is asking for too many documents, enquire from him in writing to justify his asking what are seen as non-essential documents, cc to the Insurer. If he justifies the same, then provide it. ◆ Remind the surveyor cc to Insurer to do the same, especially when it is difficult to obtain them.



Section 3 of IRDAI Protection of Policyholders' Interests Regulations, 2017

Duties of Insurer

- ◆ The surveyor shall start the survey immediately unless there is a contingency that delays the immediate survey, in any case, within 48 hours of his appointment
- ◆ An interim report of the physical details of the loss shall be recorded and uploaded/ forwarded to the Insurer within the shortest time but not later than 15 days from the date of the first visit of the surveyor.

Duties of the Insured/ *Advice to Insured*

- ◆ Write to surveyor/insurer if there is a delay
- ◆ The Insurer shall furnish a copy of the interim report to the insured/claimant if he so desires. Please ask, cc to Insurer.

Section 4 of IRDAI Protection of Policyholders' Interests Regulations, 2017

Duties of Insurer

- ◆ Where the insured is unable to furnish all the particulars required by the surveyor or where the surveyor does not receive the full cooperation of the insured, the Insurer or the surveyor, as the case may be, shall inform in writing to the insured under information to the Insurer about the consequent delay that may result in the assessment of the claim.
- ◆ It shall be the duty equally of the Insurer and the surveyor to follow up with the insured for pending information/
- ◆ documents guiding the insured about submissions to be made. The Insurer and/or surveyor shall not call for any information/ document that is not relevant for the claim

Duties of the Insured/ *Advice to Insured*

- ◆ Provide all cooperation and essential documents to prove the claim. For any unusual request or onerous duty, ask for clarification.
- ◆ The Insurer and/or surveyor shall not call for any information/document that is not relevant for the claim – this may be kept in mind when unusual requests are made.



Section 5 (I) of IRDAI Protection of Policyholders' Interests Regulations, 2017

Duties of Insurer

- ◆ The surveyor shall, subject to sub-regulation 4 above, submit his final report to the Insurer within 30 days of his appointment.
- ◆ The Insurer shall furnish a copy of the surveyor's report to the insured/claimant if he so desires.
- ◆ Notwithstanding anything mentioned herein, in case of claims made regarding commercial and large risks, the surveyor shall submit the final report to the Insurer within 90 days of his appointment.
- ◆ However, such claims shall be settled by the Insurer within 30 days of receipt of the final survey report and/or the last relevant and necessary documentation as the case may be.

Duties of the Insured/ Advice to Insured

- ◆ The Insurer shall furnish a copy of the surveyor's report to the insured/claimant if he so desires. Please ask cc to Insurer.
- ◆ If a claim is large or complicated, please bear with the delay but cooperate fully. More important, ask for on-account payment after 20 days.

Section 5 (ii) of IRDAI Protection of Policyholders' Interests Regulations, 2017

Duties of Insurer

- ◆ Where exceptional circumstances exist in respect of a claim, either due to its unique/complicated nature or due to difficulties associated with replacement/ reinstatement, the surveyor shall seek an extension from the Insurer for submission of his report.
- ◆ In such an event, the Insurer shall give the status to the insured/claimant fortnightly wherever warranted. The Insurer may make provisional/ on account payment based on the admitted claim liability.

Duties of the Insured/ Advice to Insured

- ◆ If the surveyor does not submit his report within 30/90 days, keep writing to the surveyor /insurer
- ◆ Ask for on account payment and send reminders

Section 6 of IRDAI Protection of Policyholders' Interests Regulations, 2017

Duties of Insurer

- ◆ If an insurer, on the receipt of a survey report, finds that it is incomplete in any respect, he shall require the surveyor, under intimation to the insured/claimant; to furnish an additional report (only once) on certain specific issues within 15 days of the receipt of the final survey report.

Duties of the Insured/ Advice to Insured

- ◆ Under intimation to the insured/claimant

Section 8 of IRDAI Protection of Policyholders' Interests Regulations, 2017

Duties of Insurer

The surveyor shall furnish an additional report within three weeks. .



Section 8 of IRDAI Protection of Policyholders' Interests Regulations, 2017

Duties of Insurer

- ◆ On receipt of the final survey report or the additional survey report, as the case may be, and on receipt of all required information/documents that are relevant and necessary for the claim, an insurer shall, within 30 days, offer a settlement of the claim to the insured/claimant. For any reason to be recorded in writing and communicated to the insured/claimant, suppose the Insurer decides to reject a claim under the policy. In that case, it shall do so within 30 days from the receipt of the final survey report and/or additional information/documents or the additional survey report, as the case may be.

Duties of the Insured/ Advice to Insured

- ◆ Ask for a decision after the 30 days is over.

Section 9 of IRDAI Protection of Policyholders' Interests Regulations, 2017

Duties of Insurer

- ◆ In case the amount admitted is less than the amount claimed. The Insurer shall inform the insured/claimant in writing about the basis of settlement in particular, where the claim is rejected; the Insurer shall give the reasons for the same in writing drawing reference to the specific terms and conditions of the policy document.

Duties of the Insured/ Advice to Insured

- ◆ Ask for reasons if not given. Ask for clarifications if the reasons given are not understood or satisfactory.

Section 10 of IRDAI Protection of Policyholders' Interests Regulations, 2017

Duties of Insurer

- ◆ In the event the claim is not settled within 30 days as stipulated above, the Insurer shall be liable to pay interest at a rate which is 2% above the bank rate from the date of receipt of the last relevant and necessary document from the insured/claimant by Insurer till the date of actual payment

Duties of the Insured/ Advice to Insured

- ◆ Ask for interest in writing after the 30 days are over.



Claims The First Steps



It is most important to keep in mind that whereas the insurer deals with claims of all kinds every day, an insured may face a claim very seldom. Hence, they are always at a disadvantage to the insurer and surveyor, as to their duties and obligations in dealing with the claim under the terms of the policy. It is quite common to see that adversarial stand may be taken by the insurer and the surveyor. It is thus important to manage claims with correctness and promptitude.

Looking at disclosures and cover requirements from the claim end, i.e., with a possible claim in view

- a. When a policy coverage is taken, it is remembered that it is a contract and hence record keeping is very important. So, every insured needs to open a file (physical or folder in the computer) and preserve all records such as the proposal form, policy copy, communications with the insurer, endorsements, renewals, etc.
 - b. If the insurer did a risk inspection, get a copy of their report or do not draw up a report, then minute the visit, send a copy of the minutes to the insurer, and file a copy for the future.
 - c. Any changes that are material to the property insured or manufacturing or storage, details of any expansion etc., as also any change in ownership etc., should be informed in writing to the insurer, and proper endorsement should be obtained and, where necessary additional premium should be paid.
 - d. Please note that a cover of insurance will start only after the insurer receives the premium.
- ### **2. When a Claim Occurs – the early part of the claim is critical**
- a. When an unfortunate loss occurs, all communications should be recorded by letter or email, and copies should be kept carefully. Oral statements have no value unless confirmed in writing. All meetings and interactions should be minuted and sent to the parties concerned.
 - b. The claim should be intimated immediately, and the surveyor appointment should be followed up if not done promptly by the insurer. All civil, police authorities and fire brigade (in case of fire) should be informed in writing. Photographs of the loss should be taken extensively; where necessary, even videos may be taken. Newspaper reports of the accident/loss should be collected and filed, with copies given to the surveyor. All efforts should be made to minimise the loss. After the surveyor comes, with the knowledge of the surveyor/insurer, segregate the salvage. Disposal of salvage should be arranged as instructed by the insurer/surveyor.
 - c. Documents to prove the claim has to be collected and given to the surveyor and/insurer. If there is harassment by asking for unnecessary documents, justification should be asked for documents considered unnecessary (see IRDAI PPI Regulations).
 - d. Get familiarised with the Regulations of the IRDAI: Protection of Policyholder Interests 2017 and the Surveyors Regulations 2015. A letter might be sent to the insurer/surveyor as per the regulations if the services or obligations stipulated there are not complied.

- e. When the surveyor visits the site of all assistance must be given for survey and investigation, and all areas where the peril has affected must be physically shown; he is allowed to take photographs, measure the dimensions, collect physical pieces of evidence, meet and interview eye-witnesses, go through relevant records, such as gate registers, all relevant accounts, manuals, plans and drawing of the affected site, ownership (insurable interest) details etc. Bank statements may also be sought.
- f. Written queries must be replied to in writing. All meetings with the surveyor must be documented, or a summary of minutes may be made by the insured and sent to all parties concerned.
- g. Please follow up with the surveyor and the insurer for the interim survey report and final survey report. If any error or omission is seen, immediately record it and write to both the surveyor and insurer.
- h. Request for on-account payment of claim may be made if the claim amount is high and time will be taken for the final report.
- i. Settlement timelines should be followed up in writing regularly, and copies kept filed.

#IRDAIFormationDay

Congratulations to Team IRDAI on completing 21 years ushering reforms, regulating and developing Insurance Industry with an eagles eye on Policyholders Protection.



SUCCESSFUL 2021 YEARS



Ushering reforms, regulating and developing Insurance Industry with an eagles eye on Policyholders Protection



Embedded Insurance - To affinity and beyond

Bundles coverage or protections within the purchase of a product, service or platform. That means the insurance product is not sold to the customer ad hoc but is instead provided as a native feature.



Sundaram Venkatavaradan

Principal officer and CEO
Abhivridhi Insurance Brokers Pvt

We have seen embedded finance which the financial institutions are already capitalising.

Embedded finance integrates financial services (such as credit products) into a traditionally non-financial service or product. It can augment the current offerings of the non-financial service or even completely reconceptualise it. Done well, the "FinTech" part of the app becomes indistinguishable from the digital platform where it is embedded.

HR Tech Payroll platform offering Payday loans, salary advances or personal loans

Khata App – offers cash advance or a loan for MSME.

Leverage customer relationships to ease operations. These relationships unlock efficiency in managing the loan lifecycle. For example, the repayment of loans improves as payment reminders, deductions at the source are enabled on the platforms.

What is embedded Insurance?

"Bundles coverage or protections within the purchase of a product, service or platform. That means the insurance product is not sold to the customer ad hoc but is instead provided as a native feature."

Now can Insurance be embedded in a product or a service or on a similar platform? Many moons ago, I bought a padlock manufactured in Pune. The lock came with burglary insurance for a sum insured of

50,000, if the lock is broken, please return the same with the police report, and the claim of 50000 will be settled; I thought it was a brilliant concept.

Now can we leverage other platforms for Insurance, or is it too complicated? We, as industry players, should come up with where to play? And how to win?

We all know Insurance is something that nobody wants, but everybody needs.

We see a fundamental weakness in the insurance industry's business model - an inability to match supply with demand effectively. Why is this?

On the demand side, insurance products are complicated, inflexible, expensive, regularly mis-sold, challenging and annoying to buy (all those forms to fill in). The benefits to customers are uncertain and distant.

On the supply side, related to these issues, the costs of distribution (of selling products to customers who don't understand, trust or want them) are enormous at roughly 50% of total industry costs. Insurers are expert at managing risk, but their underwriters lack rich enough, real-time data to create affordable and personalised products that can keep pace with market demands, accelerating trends and the new risks that go with them.

Laws and regulations designed for a pre-digital age restrain them further. And the

incentives for traditional sales channels reinforce behaviours that do not encourage customer innovation or value.

Companies like ANT (Alibaba) in China, BIMA in Africa, have innovative solutions where Insurance is embedded using fintech products. The client buys what he needs rather than getting into long-term contracts.

UBER is unhappy with current motor insurance contracts in most countries where the drivers are tied up for 12 months; when there is a downtime, they still pay the premium. They have devised a new platform where it's easy to hop in and hop out of Insurance in a flat of 3 minutes.

Tesla will be a classic example where they will sell Insurance and their cars, which will be embedded with the car as they understand their cars more than what the insurer would understand, collect driver behaviours, and make more informed decisions.

As Elon Musk said: "Insurance is a good example of a product that's made by our internal applications team. We make the insurance product, connect it to the car, look at the data, and calculate the risk. This is all [done] internally — basically [it's an] internal software application."

Amazon Pay, for example, announced that it was selling auto insurance in India, promising a two-minute sign-up process and no paperwork. "This, coupled with services like hassle-free claims with zero paperwork, one-hour pick-up, 3-day assured claim servicing and one-year repair warranty in select cities, as well as an option for instant cash settlements for low-value claims, making it beneficial for customers", said a spokesperson.

Not every company wants to create its own insurance company. Still, in the future, many more companies, like Ant Group, will be able to design insurance products tailored to the needs of their suppliers and their consumers.

NBFCs have already tied up with insurers offering extended warranty for electronic goods. We have tickets bought through IRCTC that have embedded personal accident insurance; next will be life and baggage insurance and embedded in train tickets and flight tickets. Banks are embedding Insurance through loan products, Internet doctors have started providing telemedicine online which will be a future for embedding OPD insurance. The MSME registration could be embedded with the basic required Insurance based on the type of business, the possibilities are endless.

Where do we stand as brokers? Will we be designers of such products, distributors or disruptors? Sooner rather than later, we need to find a sweet spot for ourselves and adapt to the technology before going **the dinosaur way.**

Reference: <https://www.linkedin.com/pulse/embedded-insurance-3-trillion-market-opportunity-could-simon-torrance>





Questions posed to S.K Sethi, Director, RIA Insurance Brokers by P K Rao Director, Beacon Insurance Brokers during Webinar held on 9 April 2021. This Webinar was attended by 184 participants.

#askme

PKR: Mr Sethi, Can you please highlight your perception of the threats posed by the acts of cyber and commercial crime on the organizations - both in the manufacturing and other sectors?

SKS: Traditionally we always thought that cyber risks are faced by Banks, Credit Cards and IT Companies (mainly working for foreign clients). During 2020 while facing the reality of Covid and WFH scenario it was found that wide spectrum of Industry comprising of Health Care Providers (Hospitals & Diagnostic Labs), Power Generating Plants, Power Grids, Railways, Airport Traffic Control Towers, Metro all of these are prone to facing Cyber Attacks and affecting the lives of Crores of persons.

PKR: I would like you to address a more generic question related to this subject. As we are aware - Due to the current Covid 19 pandemic, the incidence of Work-From-Home has increased tremendously all over the world. This involves more and more people using their own Laptops, PCs or home computers for carrying out their official functions.

In your opinion, whether this new trend of Working-From-Home has increased the exposure of the respective organizations to Cyber-attacks and threats as well as to Commercial crime?

SKS: WFH change came suddenly in March 2020 when organizations were taken by surprise and they had no option but to permit employees to use self-owned personal computers, laptops, smart phones for handling official work from home. Companies were desperate in permitting old computers with obsolete software, many of them without antivirus software. Smart phones in the price range of Rs 10000 with poor security features started getting used even for official financial transactions. Low bandwidth broad band connection in residential areas was another weak point in the overall set up. Young couples using baby monitors from the same router were actually posing a great risk for the complete IT system of the company. The fact was that people were not aware that hacking of employee computer at home can affect the hundreds of computers being used by the corporate.

PKR: There is currently a lot of talk going around of the possible threat of Chinese cyber -attacks on Indian entities. In case any such thing happens it could be quite disastrous to the victims of such attacks.

What in your opinion is the gravity and probable impact of these threats and whether the same can be adequately covered under these 2 policies under discussion?

SKS: In the last 12 months there have been many developments on diplomatic and trade front with China with conflict on border, ban of many Apps, restrictions on imports, and non

release of orders for crackers. As a result there is wide spread fear that many cyber-attacks will take place from China and these will affect us.

Recent Power blackout in Mumbai, attempt to hack vaccine manufacturing companies doing research on development of vaccine are indications in this direction. Number of cyber attacks have definitely increased and good % of these are originating from China.

PKR: Are the Corporates in India ready to buy this product -- If not, then what could be the reasons for the same?

SKS: For a large country which is going to be 5 trillion \$ economy in few years -selling 500 insurance policies by 10 insurance companies is a clear proof that corporates are hesitant in buying Cyber insurance policy.

There can be many reasons for this – the first and the foremost is that CEO’s are impressed by the technical jargons used by IT head, which convey to the CEO of the corporate that everything within organization is in the right direction. But then Yahoo, Target and Equifax, 3 large corporations in USA were also under the same impression. When these companies got attacked then top management of the corporations decided to remove the CEO’s from the position.

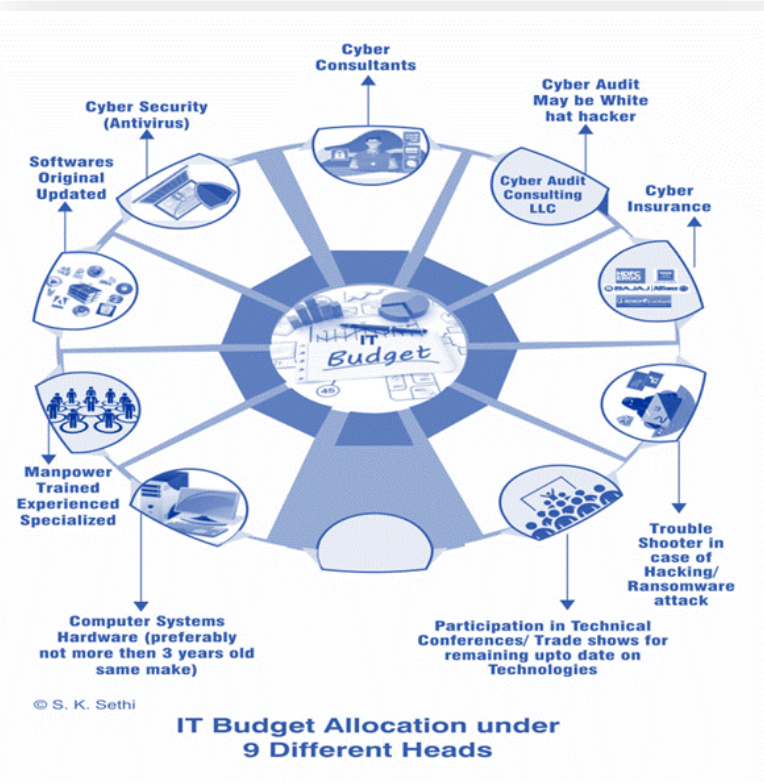
Corporates need to have optimum spending on hardware, software, security (anti-virus) use of Cyber Consultants, regular conducting of Cyber Audit, and of course buying Cyber Insurance.

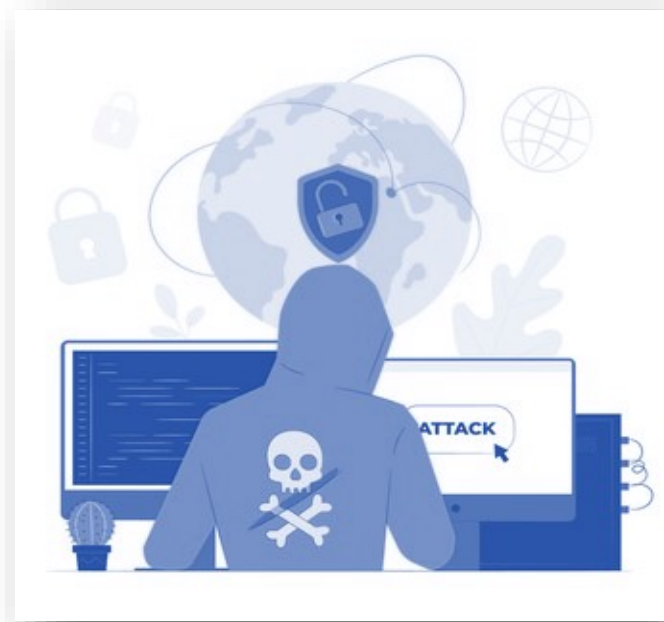
This point is well covered under “Sethi Concept of IT Budgeting” in my book “1 Cyber Attack Can Ruin You Forever” which every CEO will find very useful.

PKR: Why Insurers are hesitant in issuing this policy? Apparently the Indian Insurers do not seem to be too keen on selling this policy aggressively. Is it due to the general lack of awareness about this class of insurance – OR could it be for the reason that the premium is too high for the Corporates and hence difficult to sell – or that the premium is too low for the retail customers – and hence not worth pursuing?

SKS: Insurers are having cautious approach as the numbers of policies sold are few and they wish to maintain underwriting profitability. Wherever they are not satisfied with cyber security at client’s end they do not want to undertake risk by issuing policy.

Few persons spread over the whole country; low volume resulting in narrow bandwidth is resulting in delay in issuing quote. 2 to 3 sets of questions are commonly sent to clients and these results in 6 to 8 weeks of delay. When the quote is given -then putting high deductible (Rs 25 lakhs to Rs 50 lakhs) repels the client. Things are improving now -let us see improvements in 2021.





PKR: Who is blocking the growth of this portfolio? –

Considering the huge benefits it can afford to the users, it appears that the growth of this portfolio is not taking place as it should. So who – or what is blocking the growth of this portfolio?

SKS: We feel that all stakeholders are responsible for blocking the growth of this portfolio. Insurers are hesitant and Corporates are not convinced in buying so postponing the decision.

We as a nation have been always looking for direction from the Government and then changing our selves or adapting to the new environment. What is needed is statutory direction that all listed companies or all private Limited Companies (numbering 12 Lakhs) should go in for Cyber Insurance.

When this happens then the real growth will come.

PKR: As a broker should you invest your time on this product?

In your opinion, do you think that - At the end of the day the question that the Brokers need to ask themselves is?

Is it worth investing time and effort in the marketing of this product?

SKS: If you have surplus funds -definitely you should invest your time, funds in this portfolio as you will have to wait for time and then it will be profitable portfolio.

It is a long term investment. You may need costly consultant (Rs 50000 to Rs 1 lakh per day) to close the deal and that you will appreciate has to go out of your brokerage.

At present this is not a market large enough to feed near to 500 brokers. Do not burn your money and time. Wait for it to mature.

PKR: What is the option before all of us as Brokers – I would like you to summarise the deliberations of the day by responding to the question: As Brokers - What is the option left before us?

SKS: Very good question. There is major role before Leadership of IBAI. They should take up with SEBI, IRDA, Ministry of Corporate Affairs & Finance Ministry for some of the important changes:

Appointment of IBF for 3 years by corporates on the same lines as they appoint Auditors, Company Secretary so that Risk Management Report signed by IBF becomes an important document in the balance sheet to save the interests of :

- ◆ Lenders
- ◆ Shareholders
- ◆ Government Revenue (taxes..)
- ◆ Interest of employees (saving of jobs)

Such a change will result in growth of Insurance industry in the country and of course the growth in numbers of Cyber Insurance, D&OE, and Group Gratuity policies being sold in the country

Regulatory Round Up

What's New from IRDAI Jan-March 2021	
01.01.2021	List of Health Products 2020-21 published
02.01.2021	The Consumer Affairs Department (CAD) of IRDAI informs that Consumer Booklets can be download (.pdf files).
04.01.2021	De-notification of All India Fire Tariff (AIFT), 2001 for certain risks & Introduction of standard products and guidelines for Dwellings, Micro and Small Businesses
18.01.2021	Report of the Working Group (WG) to examine and recommend linking of motor insurance premium with traffic violations published
19.01.2021	Report of the Committee to review MISP Guidelines published
19.01.2021	Report of the Committee for standardization of professional indemnity insurance policy – for insurance intermediaries
20.01.2021	Report of the Working Group (WG) to Study Cyber Liability Insurance
01.02.2021	List of Products /add-on noted during the FY-2020-21 (Non-Life Products)
03.02.2021	Guidelines on Standard Vector-Borne Disease Health Policy
08.02.2021	Modified guidelines on product filing in the health insurance business
08.02.2021	Report of the Working Group on Index-Linked products (Life)
09.02.2021	Issuance of digital insurance policies by insurance companies via Digilocker
10.02.2021	Annual Report 2019-20 of IRDAI published
11.02.2021	Product Structure for Insurance of Remotely Piloted Aircraft System (RPAS) / Drones
25.02.2021	Guidelines on Standard Personal Accident Insurance Product
26.02.2021	Public Disclosures in Non-Life Insurers' website links
01.03.2021	Communications on basic information on health insurance policies to policyholders
09.03.2021	IRDAI Guidelines on Standard Insurance Products
09.03.2021	List of Standard Products-Health Insurance
09.03.2021	Standard Products-Life
09.03.2021	Standard Products-General Insurance
12.03.2021	Handbook on Indian Insurance Statistics F.Y. 2019-20
16.03.2021	Modified guidelines on product filing in the health insurance business
18.03.2021	Modification in Guidelines on Standard Individual Health Insurance Product
19.03.2021	Health Insurance Claims Settlement
23.03.2021	Modification of Guidelines on Standard Personal Accident Insurance product
23.03.2021	Issuance of Electronic Policies
24.03.2021	Extension of timelines for sale and renewal of short term Covid specific health insurance policies
24.03.2021	(a) Issuance of Electronic Policies and (b) Dispensing with physical documents and wet signature on the proposal form
26-03-2021	Insurance (Amendment) Act,2021 allowing foreign equity up to 74%
31-03-2021	Standard products on Fire and Allied Perils insurance business w.e.f 01.04.2021

Knowledge Snippet

Understanding Insurance Quiz

1. Insurer must settle a claim in how many days after receipt of the final survey report?

- A. 60 days
- B. 90 days
- C. 45 days
- D. 30 days

2. How can an insured obtain a copy of the survey report?

- A. From the surveyor by writing to the surveyor.
- B. From the insurer by writing to the insurer.
- C. By the use of Right to Information (RTI) Act provisions.
- D. Through the court of law.

3. Which of the following surveys are recognised in the Insurance Act

- A. Preliminary Survey
- B. Spot Survey
- C. Survey
- D. Insurer Survey

4. Approaching Ombudsman is good for claims below the threshold – Choose the best option

- a. It is cost free
- b. No Advocate is required.
- c. It is fast
- d. Insurer has no option but to pay the award.

5. In case the policy is on reinstatement value basis can the insurer, forcefully settle on market value basis?

- a. Yes, by invoking the 12-month clause
- b. Yes. When the insured appears to want quick settlement, even before reinstatement
- c. Yes. When the Insurer wants to speed up settlement
- d. No. Insurer needs to obtain the written consent of the insured before doing so.

6. On what grounds can an insurer repudiate a claim

- a. Based on survey report
- b. Based on the recommendations of the underwriting office
- c. Based on policy terms and conditions
- d. Based on the advice of the legal advisor/ investigator

7. What is the meaning of fundamental breach as termed by courts?

- a. A violation that is contained in any part of the policy contract.
- b. A violation that is found to have been caused by the insured or his servants.
- c. A violation that is pointed out by the surveyor.
- d. A violation that is a breach of a policy condition, which has caused the loss.

.....Answers.....

1. d. 30 days – PPI Regulation sec. 15 sub section 5 (i), sec. 8

2. b. By the Insurer as per PPI sec. 5 (i). In Surveyor Regulations 2015 sec. 13 (2) also states that the surveyor should give a copy to the insured.

3. c. Survey. Sec. 64 UM of the Insurance Act.

4. d. see Insurance Ombudsman Rules, 2017 sec. 17 sub section (6) The Insurer shall comply with the award within thirty days of the receipt of the award and intimate compliance of the same to the Ombudsman. (8) The award of Insurance Ombudsman shall be binding on the insurers.

5. d. No. Insurer needs to obtain the written consent of the insured before doing so. Madras High Court in the case Hdfc Ergo General Insurance Co Ltd vs M/S Rohini Movie Park Rukmini (2019): "27. The terms of insurance policy is for Reinstatement Value Basis. There is no clause, which gives unilateral discretion to the insurance company to change the same into Market Value Basis. Assuming that the conversion is permissible with the consent of the insured, any modification to the written agreement ought to have been in writing."

6. c. Based on policy terms and conditions only.

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