

Bank-Promoted Insurance Companies After The 2025 Legal Reforms: Corporate Control, Board Independence and Regulatory Coordination

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Abstract

Banks which own insurance companies operate in the interface of two regulatory systems, and the Sabka Bima Sabki Raksha (Amendment of Insurance Laws) Act, 2025 modifies the conditions of such an interface. In this paper, I attempt to explore the manner in which the Act modifies the relationship between the bank promoters and the control of the insurance affiliates they have, whether the independence of the boards is sufficient in dealing with the problems of bancassurance, and how effectively the Reserve Bank of India (RBI) and the Insurance Regulatory and Development Authority of India (IRDAI) coordinate. This study analyzes the modified insurance laws along with the banking, company, and securities laws. I argue that, by the enactment of this Act, the scope for foreign investment is expanded and the independent-board requirement is dispensed with for insurers having substantial foreign investment while the sole provision seeking to address the problems of overlapping of boards of insurers and banks, Section 32A, has not been notified. The statutes also fail to allocate supervisory responsibilities among RBI and IRDAI.

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1. INTRODUCTION

Thus, the regulation of Indian financial sector until now was based on the sectoral approach: banks were regulated by the RBI, insurers – by IRDAI. Nevertheless, corporate entities working in such spheres are not insulated from each other regarding the regulation issues. Both types of entities should be regulated not only according to their sphere of activity but also according to the Companies Act, 2013, and such issues as corporate structure, management, related-party transactions, disclosure and ownership and control. Moreover, with increasing number of banks that operate in insurance sector the interaction between two types of regulation becomes rather significant. Thus, for an insurance company promoted by a bank, there is a separation of corporate entity, license and, on the other hand, relations with the parent bank. And the main issue arising from such interaction between two systems of

regulation is the extent of influence that parent bank may exert upon its subsidiary. This issue appears especially topical when considered in light of legislative reforms of 2025. In particular, Banking Laws (Amendment) Act, 2025 made amendments to Reserve Bank of India Act, 1934, Banking Regulation Act, 1949 and State Bank of India Act, 1955.¹ Other than the above two legislations, the Sabka Bima Sabki Raksha (Amendment of Insurance Laws) Act, 2025 also provided for the introduction of a different set of structural reforms in the insurance industry. Some of these reforms include allowing foreign investment in the Indian insurer up to one hundred percent of its paid-up equity capital under specified terms and conditions.² It is relevant to note that Section 25 of the 2025 Act introduced Section 32A of the Insurance Act, 1938, dealing with common directors and officers. The proposed amendment extended the limitation not only to the common officers of

¹ Banking Laws (Amendment) Act, 2025, Act 16 of 2025; Department of Financial Services, Government of India, Press Release, 30 July 2025.

² Sabka Bima Sabki Raksha (Amendment of Insurance Laws) Act, 2025, Act 40 of 2025, Gazette of India, 21 December 2025.

insurers but also to those directors or officers of the insurer, who are also directors or officers of a banking company or investment company.³ The provisions of the Insurance Amendment Act were brought into operation on 5 February 2026 by the Central Government, with specific exclusion of section 25.⁴ Such an exclusion is legally significant because it shows that the legislative branch has taken note of the governance issue posed by overlapping roles within the financial industry while the executive branch has yet to enforce the broadened rule. This article does not consider the two 2025 statutes as laws that provide for similar legal rules. Instead, it discusses the regulatory interface where there is control of the insurance business via the owning, promoting, or exercising of significant influence by the banking group. The key point being made here is that the current regulation structure in India does not completely take care of the governance implications of group control.

2. LITERATURE REVIEW

Current research in corporate governance in financial institutions largely treats the banking and insurance industries as two independent spheres of regulation. While current research in banking concentrates mostly on depositors' rights, board governance, prudential regulations, restrictions on ownership and systemic risks, many papers on insurance industry concentrate mainly on policyholders' rights, solvency, investment regulations, insurer governance and IRDAI's role. Second, there exists a body of literature related to financial conglomerates and the problems that emerge because of the coexistence of various regulated firms under the same corporate group. In particular, the main problem associated with such conglomerates is that the failure of one of them might spread to other members through common ownership, management, internal transactions, common infrastructure and reputation. The perspective of company's law adds another layer to this analysis. The directors have an obligation to act according to the articles of association and in good faith for the benefit of the company and its stakeholders. Section 166 of the Companies Act, 2013 sets out several statutory duties of the directors.⁵ These responsibilities become more complicated in the context of the subsidiary structure as the directors could be dealing with commercial pressures due to their obligation to the promoter group and legal pressures due to their responsibility towards the subsidiary company at the same time. The literature has thus proven the significance of each corporate governance, financial conglomerate, and directors' liability separately. There is still a space for a legal investigation into how the reforms of 2025 of the banking sector and the reforms of 2025 in the insurance sector could interact in terms of bank-promoted insurers. What is unique about the current research is not that the issue of governance in the banking and insurance sectors has never been studied before, but the novel statutory interface formed due to the reforms of 2025 and the question of group-level governance.

3. THE RATIONALE OF THE STUDY

The justification for this research is related to the structural nature of the difference between corporate control and

regulatory independence. A bank may have justifiable commercial motives for promoting or owning an interest in an insurance company. Common corporate group helps distribute insurance products, integrate technology, reach customers and plan finance. Corporate law generally recognizes the legitimacy of holdings-subsidiary structures, where control of a shareholder is not necessarily illegal per se. However, the principles of insurance regulation rest on a completely different rationale. An insurance company does not deal with the commercial operations of its shareholders alone. The insurer accepts premiums, bears long-term liabilities and manages the money that are somehow connected with its clients. That is why an insurer's governance cannot be limited by commercial interests of its promoter only. Thus, there may emerge the possibility of a conflict between commercial motive of a corporate group and the need of an independent decision-making in a regulated entity. In other words, the legal issue that arises here is not whether the corporate control should be prevented but whether there are enough legal measures in place that would ensure the regulator's independence. The 2025 reforms represent an adequate moment to reconsider.

4. THEORETICAL FRAMEWORK

There are three different theoretical approaches used in this article. The first is agency theory on corporate governance that can provide an understanding of possible conflicts between shareholders and management. However, in the case of an insurer promoted by the bank, the classical interaction between shareholders and managers may not sufficiently describe the problem. There may be another powerful interest group in the bank that is able to affect management and the board. The question is whether the interests of the promoter group coincide with the interests of the controlled subsidiary and its stakeholders. The second is the stakeholder theory that is also appropriate to use in this situation, as insurance firms are regulated by some body and one of the stakeholder groups is policyholders.⁶ Thirdly, the idea of regulatory independence has been employed to evaluate the ability of sector-based regulatory agencies to effectively monitor an institution's strategic decision-making that could potentially be affected by another regulated institution. Regulatory independence does not always entail ownership independence. Rather, what it entails is the provision of sufficient institutional protection measures such that the decision-making of the regulated institution would be in accordance with the law, prudence and the stakeholders' interests. It follows then that the article proposes that ownership, control and regulatory independence are three distinct ideas. An institution might still be a legitimate promoter despite not having complete control over the decision-making process of the insurance company.

5. METHODOLOGY

A doctrinal and analytical methodological approach is followed in the course of the research process. Primary legal materials would comprise the Companies Act, 2013; Banking Regulation Act, 1949; Insurance Act, 1938; Banking Laws (Amendment) Act, 2025; Sabka Bima Sabki Raksha (Amendment of

³ Sabka Bima Sabki Raksha (Amendment of Insurance Laws) Act, 2025, s 25, substituting s 32A of the Insurance Act, 1938.

⁴ Ministry of Finance, Department of Financial Services, Notification S.O. 490(E), 3 February 2026. The notification

appointed 5 February 2026 as the commencement date for the provisions of the Act except section 25.

⁵ Companies Act, 2013, s 166.

⁶ Insurance Regulatory and Development Authority of India (Corporate Governance for Insurers) Regulations, 2024, reg 2.

Insurance Laws) Act, 2025 and the regulatory provisions enacted by the RBI and IRDAI.

A specific focus would be on the IRDAI Corporate Governance for Insurers Regulations, 2024 and the commencement notifications issued in respect of the amendments in 2025. Secondary legal materials would be considered only to the extent required for identifying the regulatory context and alternate interpretative approaches. Judicial pronouncements of the Supreme Court of India regarding directors' fiduciary obligations, corporate control, shareholders' rights and governance are examined in order to develop the doctrinal framework. The research process adopted is qualitative in nature and does not involve any primary empirical interviews or statistical studies.

6. THE LEGAL ARCHITECTURE GOVERNING BANK-PROMOTED INSURANCE COMPANIES

6.1. The Companies Act, 2013

Companies Act forms the legal basis under which the companies involved in regulated financial sectors will be required to operate in respect of laws specific to the industry. The duty of directors is set out in Section 166. A director shall act in accordance with the articles of the company, acting in good faith and in promoting the objectives of the company for the benefit of its members as a whole.⁷ Importance of section 166 in relation to a bank-sponsored insurer is great. A director sponsored or appointed by a bank cannot view interests of the bank as automatically coinciding with interests of an insurance subsidiary of the bank. Legal obligation lies on the company at which the director is serving on the board. Companies Act is also applicable in relation to disclosure of interest and related party transactions. Sections 184 and 188 are important in case of transactions between members of the same corporate group.⁸ These are very useful provisions; however, they have a transactional focus rather than addressing the larger issue of strategic influence through board membership.

6.2. The Banking Regulation Framework

Banking Regulation Act, 1949 continues to be the most prominent law regulating banking in India. Several modifications have been made to the existing regulatory framework of banking through the passage of Banking Laws (Amendment) Act, 2025. One of such amendments relates to increasing the threshold limit for 'substantial interest' from five lakh rupees to two crore rupees.⁹ Nevertheless, it is imperative to note that the banking legislation of 2025 does not impose an outright ban on the existence of common directors within both the banks and insurance firms. The amendment of section 16 pertains only to the statutory regulation of the directors of central co-operative banks nominated to State co-operative banks.¹⁰ However, the general aspect of governance in the amendment is applicable to the current study. This is because the bill shows the ongoing goal of modernizing the governance

structure in banking firms. It becomes more compelling if one considers the 2025 amendments in relation to insurance along with the current bill.

6.3. The Insurance Act and the 2025 Insurance Law Reform

The Insurance Act, 1938 governs the substance and institutions of the insurance business in India. The Insurance Amendment Act 2025 brought major modifications, among which was the introduction of section 3AA whereby foreign investment in Indian insurers can be made up to one hundred percent of the equity capital, under certain conditions.¹¹ Furthermore, the amendment aimed at expanding the statutory prohibition on common directors and officers by replacing section 32A with a new provision. Pursuant to this provision, a person who was a director or officer of one insurer should not at the same time be a director or officer of any other insurer engaged in the same kind of insurance business or of any banking company or investment company.¹² This section is especially relevant to those insurance companies that have been set up by the banks. It takes into consideration the fact that interrelated positions in the regulated entities might create situations of conflict, which cannot be handled using the usual mechanisms of corporate law. However, it should be noted that this particular section has not been brought into force along with other sections of the act. The commencement notice, issued on 3 February 2026, did not include section 25.¹³ This raises the question of what kind of governance structure would be necessary if this restriction were not enough.

6.4. IRDAI's Corporate Governance Framework

The Corporate Governance for Insurers Regulations, 2024 issued by IRDAI act as a significant link between corporate law and insurance laws. The Corporate Governance for Insurers Regulations, 2024 clearly state that the Companies Act means Companies Act, 2013 and also lay down a governance structure relating to the Board and Management of insurers.¹⁴ The stated objectives include sound and prudent governance and protection of the interests of stakeholders, including policyholders.¹⁵ This demonstrates that insurance corporate governance cannot be understood solely through shareholder-control principles. For bank-promoted insurers, the Regulations therefore operate alongside the Companies Act and the Insurance Act. The resulting framework is inherently multi-layered: corporate law determines the general duties of directors, insurance regulation imposes sector-specific governance obligations, and banking regulation governs the promoter bank.

⁷ Companies Act, 2013, s 166(2).

⁸ Companies Act, 2013, ss 184 and 188.

⁹ Banking Regulation Act, 1949, ss 5(ne), 10A and related provisions as amended by the Banking Laws (Amendment) Act, 2025.

¹⁰ Banking Regulation Act, 1949, s 16, as amended by s 5 of the Banking Laws (Amendment) Act, 2025. The amendment concerns the position of a director of a central co-operative bank elected to the Board of a State co-operative bank.

¹¹ Insurance Act, 1938, s 3AA, inserted by the Sabka Bima Sabki Raksha (Amendment of Insurance Laws) Act, 2025.

¹² Sabka Bima Sabki Raksha (Amendment of Insurance Laws) Act, 2025, s 25.

¹³ Ministry of Finance, Department of Financial Services, Notification S.O. 490(E), Gazette of India, 3 February 2026.

¹⁴ Insurance Regulatory and Development Authority of India (Corporate Governance for Insurers) Regulations, 2024, reg 3.

¹⁵ Ibid, reg 2.

7. CORPORATE CONTROL AND BOARD INDEPENDENCE IN BANK-PROMOTED INSURANCE COMPANIES

Corporate control is not inherently inconsistent with regulatory independence. A parent company may legitimately exercise shareholder rights without directing every operational decision of its subsidiary. The difficulty arises when formal corporate separation does not correspond with substantive decision-making independence. The issue may arise through several mechanisms: appointment of nominee directors, common senior management, group-level strategic policies, common technology platforms, intra-group service arrangements, related-party transactions and financial dependence. Each mechanism may be lawful individually while collectively producing significant influence over the subsidiary. The Companies Act provides a framework for directors' duties and disclosure, but sector-specific regulation adds a prudential dimension. An insurance board must consider policyholder interests, solvency and regulatory requirements. A bank's board, meanwhile, is concerned with depositor interests, prudential stability and banking regulation. The possibility of conflicting institutional objectives therefore makes board independence particularly important. A director appointed because of the promoter's shareholding must nevertheless exercise independent judgment when deciding matters concerning the insurance company. The Supreme Court's jurisprudence supports this principle. In *Dale & Carrington Investment (P) Ltd v P.K. Prathapan*, the Court treated the directors' power over share capital as fiduciary in nature and scrutinised its use for an improper purpose.¹⁶ Although the case did not concern a bank-promoted insurer, its broader principle is relevant: corporate powers cannot be exercised merely to advance an improper control objective. Similarly, in *Needle Industries (India) Ltd v Needle Industries Newey (India) Holding Ltd*, the Supreme Court recognised the fiduciary character of directors' powers and examined whether corporate powers had been exercised for a legitimate corporate purpose.¹⁷ These principles are especially relevant where promoter influence intersects with a regulated subsidiary. The existence of a group relationship cannot transform a director's duty to the subsidiary into a duty to advance the promoter's interests.

8. THE COMMON DIRECTORSHIP PROBLEM AND THE 2025 INSURANCE REFORM

The proposed amendment to section 32A represents the clearest legislative recognition of the common-directorship problem in the insurance context. The proposed rule would restrict an insurer's director or officer from simultaneously occupying a corresponding position in a banking company. The policy rationale can be understood in three ways. First, common directorship may create conflicts of interest. A person sitting on the boards of a bank and an insurance company may receive confidential information from both institutions. Even if no improper disclosure occurs, the possibility of divided loyalty can undermine confidence in governance. Secondly, common directorship may facilitate group-level influence. Board members occupying positions across entities may become informal channels through which strategic decisions are coordinated outside the formal governance

mechanisms of each entity. Thirdly, common directorship may complicate regulatory supervision. RBI and IRDAI may assess the same individual from different statutory perspectives. The existence of separate regulatory responsibilities becomes more difficult where the individual participates in decision-making for both regulated entities. At the same time, an absolute prohibition may produce unintended consequences. Bank-promoted insurers may have historically developed governance structures based upon legitimate promoter representation. Removing common directors without an appropriate transitional framework could create board vacancies, reduce institutional knowledge and increase compliance costs. The exclusion of section 25 from the February 2026 commencement notification therefore presents an opportunity for a more calibrated approach. Rather than treating the issue as a binary choice between unrestricted common directorship and an absolute prohibition, the regulatory framework could distinguish between categories of directors and officers, levels of influence and types of financial institutions.

9. REGULATORY COORDINATION BETWEEN RBI AND IRDAI

The most crucial structural problem is the lack of an adequate group governance framework. The RBI and IRDAI regulate different entities in line with different statutory objectives. However, the risk that a financial conglomerate poses may manifest itself at the group level. For instance, the decisions made by the parent firm could impact the bank and insurer at once. A shared service provider or technology could also make them dependent on each other. A purely entity-based approach might be inadequate in recognising any risks that could emanate from the interaction of the entities. Coordination does not necessarily require establishing a single super-regulator. Rather, the RBI and IRDAI could come up with more elaborate information sharing, coordinating fit-and-proper tests for individuals serving in various regulated entities and a common approach to conflict management. The 2025 reforms represent a good legislative opportunity for coordinating the regulation. The banking reforms aim at updating the governance of banking firms, while the insurance reforms aim at improving the regulatory framework of insurers. Both regulatory regimes cannot be islands of legislation in relation to the corporate structure.

10. JUDICIAL PRINCIPLES RELEVANT TO BOARD INDEPENDENCE AND CORPORATE CONTROL

Indian company-law jurisprudence provides several principles that can guide the analysis. In the decision of *Official Liquidator, Supreme Bank Ltd v P.A. Tendolkar*, the Supreme Court has addressed the issue of the responsibility of the directors in cases of misfeasance in a bank company.¹⁸ Judgment clearly shows that directors in their capacities cannot limit themselves to non-participation, because of their position and involvement with affairs of the company. In *Dale & Carrington*, the Supreme Court emphasised the fiduciary character of directors' powers.¹⁹ This case is valuable for consideration of financial industry regulation issues in terms of the necessity of active involvement of directors in the

¹⁶ *Dale & Carrington Investment (P) Ltd v P.K. Prathapan*, (2005) 1 SCC 212

¹⁷ *Needle Industries (India) Ltd v Needle Industries Newey (India) Holding Ltd*, (1981) 3 SCC 333.

¹⁸ *Official Liquidator, Supreme Bank Ltd v P.A. Tendolkar*, (1973) 1 SCC 602.

¹⁹ *Dale & Carrington Investment (P) Ltd v P.K. Prathapan*, (2005) 1 SCC 212.

supervision of companies' activities. Another decision of the Supreme Court valuable for analysis of relations in banking industry concerns the issues of corporate governance and limits of judicial interference in corporate matters. In *Tata Consultancy Services Ltd v Cyrus Investments Pvt Ltd* the Supreme Court considered the problems related to corporate control, board control and other similar issues.²⁰ *LIC v Escorts Ltd* is also relevant to the relationship between corporate ownership and public regulatory interests.²¹ Although the case concerned a different factual setting, it remains an important authority concerning the exercise of shareholder rights by a public financial institution and the distinction between corporate rights and public-law regulation. Taken together, these authorities support a balanced proposition. Corporate control is legally recognised, but corporate powers must be exercised for legitimate purposes and directors remain subject to fiduciary and statutory obligations. In a regulated financial subsidiary, these duties must additionally be interpreted in light of the public-interest objectives of sectoral regulation.

11. DISCUSSION AND REFORM PROPOSALS

The proposed reforms of 2025 offer the chance to overcome the fragmented nature of the governance system. First, India needs to implement a better idea of group governance for financial conglomerates. The legal regime must accept that risks can be generated at the parent/governance level despite the separate incorporation of the affected entity. Secondly, promoter's involvement needs to be differentiated from the day-to-day operation. The bank should retain shareholder rights but the Board of the insurance subsidiary must be independent enough to perform its statutory/regulatory responsibilities. Thirdly, more disclosure must be made in respect of common directors, nominee directors, overlapping of senior management, inter-group dealings and significant shared services. Disclosure will lessen the danger of an informal influence remaining undetected by the regulator and stakeholders. Fourthly, the RBI and IRDAI must design a system for evaluating individuals holding governance positions across financial institutions. The aim should not be only to disqualify such individuals but to establish whether there exist any actual/potential conflicts of interest. Finally, if the prohibition on common directorship under section 32A comes into force in the future, proper transition provisions would need to be made in such a way that existing directors get sufficient time to reconstitute their boards and regulators are allowed to make exemptions in a limited sense wherever the dangers can be sufficiently mitigated. Lastly, the Companies Act structure should be the overall corporate framework while RBI and IRDAI should have the sectoral regulatory oversight. The answer therefore lies in coordination of regulation and not in replacing one system with another. Ultimately, the policyholder interest must form the heart of any governance analysis. It is a fallacy to equate the commercial interest of the banking promoter with the interest of the insurance policyholder. The Board of the insurer must still be able to objectively analyze the underwriting, investments, claims, related party dealings, and risk management aspects.

12. CONCLUSION

The reform package enacted in 2025 presents an essential opportunity to rethink the governance structure of bank-promoted insurers in India. Although the Banking Laws (Amendment) Act, 2025 and the Sabka Bima Sabki Raksha (Amendment of Insurance Laws) Act, 2025 are two separate pieces of legislation, they operate under different frameworks which overlap when banking groups exert ownership or influence on insurance companies. There is a range of legislative issues related to the interplay between corporate control and regulatory independence in this case. In spite of the fact that a bank-promoted insurer is a separate corporation with its own regulatory body, the Companies Act, 2013 sets out the basic principles concerning directors' duties and corporate governance, whereas the RBI and IRDAI are responsible for the sectoral governance rules. The proposal to broaden the scope of application of section 32A of the Insurance Act suggests that legislators understand the importance of resolving the problem of common directorship. That the provision was not included into the list of those coming into effect from February 2026 shows that the regulatory problem persists. The right solution should not be the opposition of corporate control and regulatory independence. What is needed is a more refined framework. The main suggestion of this article is the creation of a unified governance system for bank-sponsored insurance firms. This system should include increased disclosure, independent work of the boards, controls for conflicts of interests, coordinated supervision, and adequate transitional provisions for any future limitations on common directors. The overall aim is to make sure that the advantages of integration between banks and insurance firms will not lead to loss of regulatory independence. The changes that are planned until 2025 will become the legislative basis for the discussion; what is next is the creation of the legal system capable of regulation of the financial group as a unified economic system.

Author Contribution

The author conceptualized the research, conducted the literature review and doctrinal analysis, drafted the manuscript, and finalised the article for submission.

Conflict of Interest

Conflict of interest declared none.

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AI Declaration

The authors declare that no artificial intelligence (AI) tools were used in the preparation, writing, or development of this manuscript.

²⁰ *Tata Consultancy Services Ltd v Cyrus Investments Pvt Ltd*, (2021) 9 SCC 449.

²¹ *LIC v Escorts Ltd*, (1986) 1 SCC 264.

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