



बीमा विनियामक और विकास प्राधिकरण
**INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY**

ORDER

Ref: IRDA/F&I/ORD/CPM/204/08/2011

30th August, 2011

Mr. S.S. Gopalaratnam
Managing Director
Cholamandalam MS General Insurance Co. Ltd.
5th Floor, "TIAM HOUSE"
72, Rajaji Salai
Chennai - 600001

Levy of Penalty under Section 102 of the Insurance Act, 1938

The Insurance regulatory and Development Authority (herein after referred to as "the Authority") issued a certificate of registration bearing No.123 to Cholamandalam MS General Insurance Company (herein after referred to as "the Company") on 15th July 2002 to carry on business of General Insurance in India in terms of Section 3 of the Insurance Act, 1938 (herein after referred to as "the Act"). The said certificate of registration is further renewed on 28.02.2011. In terms thereof the company was subject to the terms and conditions of the certificate of registration and was also required to abide by the provisions of the Insurance Act,1938,the IRDA Act, 1999, particularly the Insurance Regulatory and Development Authority (Licensing of Corporate Agents) Regulations, 2002 (herein after referred to as 'the Regulations') and other directions issued by the Authority from time to time by way of circulars and/or guidelines particularly, Circular no.017/IRDA/Circular/CA Guidelines/2005 dated 14th July 2005 (herein after referred to as 'the Guidelines')

On review of the data submitted by the Company with the Authority in accordance with IRDA circular no. IRDA/F&I/CIR/F&A/008/01/2010 dated 21st January 2010, it was observed that the Company has paid payouts apart from/over and above the commission to Corporate Agent Indusind Bank (here in after referred to as "the corporate agent") in the form of "Data base Sharing/incentives to the employees of the corporate agent and infrastructure setting up costs" during the financial years' 2007-08 and 2008-09.

The Authority has communicated findings of the review to the Company on 7th October, 2010 and sought explanation. The Company has submitted reply on 28th October, 2010. The Authority has examined the reply and issued Show Cause notice to the Company on 31st March 2011. The Company submitted reply in response to Show Cause notice on 30th April, 2011 wherein the company requested

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the Authority to provide them with an opportunity to present their case personally. Accordingly the Authority conducted personal hearing of the company on 8th July, 2011. On examination of the reply submitted in response to Show Cause notice and minutes of personal hearing the following charges made against the Company are found to have been established for the reasons mentioned there under.

The Company contended that in the context of market practice which is widely prevalent, banks in the country enter into agreements with the insurance companies as per Clause 2(iii) of RBI notification no. DBOD. FSC.BC.27/24.01.018/2003-04 dated 22/09/2003. However it is observed that the said clause applies only to Referral arrangements with the banks and while the tie-up the Company has with Indusind Bank is a Corporate Agency arrangement, is therefore governed by the provisions of the Corporate Agency Guidelines. Insurer being a regulated entity of IRDA is under obligation to comply with the provisions of the Insurance Act, circular and guidelines issued thereunder.

The Insurer should not pay any amount other than permitted agency commission to the corporate agent as per clause 21 of the Guidelines issued on Licensing of corporate agents vide Circular dated 14th July, 2005 and over and above the limits laid down in Sec 40A(3) of Insurance Act 1938.

Having regard to the facts of the case and the gravity of the violations committed by the company, the Authority in exercise of powers vested in it under section 102 of the Insurance Act, 1938 passes the following Order.

“The company be imposed a penalty of ₹1000000 (Rs. Ten Lakhs only) (₹500000.00 each for financial years’ 2007-08 and 2008-09) for violating provisions of Regulations, Guidelines, and circulars referred above and is hereby advised to remit the requisite amount within 7 days if receipt of this Order”.

Further the Company is directed not to pay or offer to pay any extra payouts which are not provided for in the Insurance Act, 1938, Regulations made there under, Guidelines and Circulars issued in this regard from time to time.



(R. K. Nair)
Member (F&I)

