



बीमा विनियामक और विकास प्राधिकरण

**INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY**

ORDER

Ref: IRDA/F&I/ORD/ 464.1/9/F&A/RDL-31B/2011-12/177

11th December, 2013

Mr. Pavan Dhamija,
Chief Executive Officer,
DLF Pramerica Life Insurance Co. Ltd.,
4th Floor, Building no. 9B, Cyber City
DLF City Ph III,
Gurgaon – 122002.

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.140 to DLF Pramerica Life Insurance Co. Ltd. (herein after referred to as “the insurer”) on 27th June 2008 to carry on business of Life Insurance in India in terms of Section 3 of the Insurance Act, 1938. The said certificate of registration is further renewed on 01st April 2013. In terms thereof the insurer 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 (herein after referred to as “the Act”), particularly Sec 40(1) of the Act, the Insurance Regulatory and Development Authority Act, 1999, the Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002 (herein after referred to as “the Regulations”), particularly Regulation 19 of the Regulations and other directions issued by the Authority from time to time by way of circulars and/or guidelines.

On review of the data filed by the insurer with the Authority in accordance with IRDA circular no. IRDA/F&I/CIR/DATA/066/03/2012 dated 2nd March, 2012 for the financial year 2011-12, it was observed that the insurer has paid towards rewards and recognition @ Rs. 1.52 Lakh and Rs. 5.71 Lakh to Brokers - K M Dastur Reinsurance Brokers and Sridhar Insurance Brokers respectively in violation of Regulation 19 of the Regulations.

Page 1 of 3

The Authority communicated the findings to the insurer on 19th June, 2012 and sought explanation. The insurer submitted its response vide letter dated 26th June, 2012. The Authority examined the response of the insurer and issued Show Cause notice on 8th February 2013. The insurer submitted reply in response to Show Cause notice on 12th March 2013. Furthermore, the insurer's officials visited the Authority and presented their case personally on 7th August, 2013.

In reply letter dated 26th June 2012, insurer has mentioned that all other payments pertain to the value of goods procured and distributed as part of Rewards & Recognition programs of the insurer and these goods were directly distributed to Brokers towards achievement of performance standards. The rewards are not in the nature of payments made for the purpose of the Insurance Act, 1938 and applicable Brokers Guidelines. Whereas, in reply letter dated 12th March 2013 to the Show cause notice, insurer indicated that the rewards are given to the broker for distribution to its employees who fulfil eligibility criteria which are specified in advance. Insurer has further indicated that such rewards should not be included for the purpose of Regulation 19 as rewards are not based on premium generated.

During the personal hearing, insurer indicated that rewards are given to motivate the staff and were mainly based on quality of the business. There were several other parameters apart from business based on which rewards were quantified. Subsequently, in response to the Authority's mail seeking clarification on the total expenses towards gifts to all Brokers, insurer has indicated that a total of ₹17.38 Lakh was incurred in the financial year 2011-12 towards gifts which were distributed to all Brokers staff and no expenses in the nature of rewards were incurred for the period 2012-13. Various parameters on which rewards were given to the staff of the broker(s) were (i) Engagement with the insurer/ future potential of sales persons (ii) worksite activities done in the period (iii) performance on business (iv) Quality orientation.

It is evident from the above that the insurer has initially reported that the payouts in the form of "Rewards & recognition" were towards Brokers, whereas subsequently in response to the Show cause notice and during the personal hearing it was clarified that the said expenses were in the nature of gifts which were

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distributed to the employees of the Brokers and one of the parameters for quantifying these gifts was performance on business, which tantamount to sourcing of the business through unlicensed persons.

In view of the above, the Authority is of the considered view that insurer has violated the provisions of the Sec 40(1) of the Act w.r.to the expenses incurred towards gifts/rewards for the employees of the Brokers, and also misled the Authority.

Having regard to the facts of the case and the gravity of the violations committed by the insurer, the Authority in exercise of powers vested in it under section 102 of the Act imposes a penalty of ₹ 1,00,000 (One Lakh) for the above violation. Further, the Insurer is warned for having misled the Authority by changing its stand from their initial reporting and through the response to the Show cause notice/personal hearing.

Insurer is further directed to strictly adhere to the Insurance Act, 1938, Regulations made there under, Guidelines and Circulars issued in this regard from time to time.

The penalty amount shall be paid within a period of 15 days from the date of receipt of this order through a Cross Demand Draft in favour of "Insurance Regulatory and Development Authority" payable at Hyderabad, which may be sent to Mr. R.K.Sharma, Deputy Director (F&A) at the Insurance Regulatory and Development Authority, 3rd Floor, Parishrama Bhavan, Basheer Bagh, Hyderabad – 500004.

Place: Hyderabad
Date: 11th December, 2013


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