बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY

Ref: IRDA/LIFE/ORD/MISC/ 146 /06/2012

Date: 27th June 2012

Final Order in matter of
M/s HDFC Standard Life Insurance Company Ltd.

Based on Reply to Show Cause Notice Dt18th Aug 2011 and Submissions made in Personal Hearing on February 14, 2012 at 03.00 PM at the office of Insurance Regulatory & Development Authority, 3rd Floor, Parishram Bhavanam, Basheerbagh, Hyderabad

Chaired by Sri J Hari Narayan, Chairman, IRDA

The Insurance Regulatory and Development Authority (hereinafter referred to as "the Authority") carried out an onsite inspection of M/s HDFC Standard Life Insurance Company Ltd (herein after referred to as "the insurer") between 26th July 2010 to 30th July, 2010 which inter-alia revealed violations of the provisions of the Insurance Act, 1938 (the Act), various regulations/ guidelines/circular issued by the Authority.

The Authority forwarded the copy of the inspection report to the insurer under the cover of letter dated 28-September-2010 and sought the comments of the insurer to the same. Upon examining the submissions made by the insurer vide letter dated 18-October-2010, the Authority called for further information vide its letter dated 30-March-2011 which was responded to by the insurer vide letters dated 20-April-2011 and 10-May-2011. Finally, the Authority issued notice to show-cause dated 18th August, 2011 which was responded to by the insurer vide replies dated 09th September, 2011. As per the request, a personal hearing was given to the insurer by Chairman, IRDA on February 14, 2012. Mr. Amitabh Chaudhury, MD&CEO and his team were present in the hearing. On behalf of IRDA, Mr. Kunnel Prem, CSO(Life), Mr. Suresh Mathur, Sr. JD (Intermediaries), Mr. M. Pulla Rao, Sr. JD (Inspections), Mr. SN Jayasimhan, JD (Investments), Ms. Mamta Suri, JD (F&A), Ms. Meena Kumari, HoD(Actl), Mr. V. Jayanth Kumar, JD (Life), Mr D V S Ramesh, D D (Life) and Mrs R Lalita Kumari, A D (Life) were present in the personal hearing. The submissions of the insurer in their written reply to the following charges levelled in the Show Cause Notice as also those made during the course of the personal hearing were taken into account and a decision on each of the charges is issued hereunder.

1) Charge 1: The investments made by the insurer were not adhering to the exposure/prudential norms at 'investee company' level and deviations were also noticed where investments made by the insurer in respect of ULIPs at segregated fund level were not adhering to the ceilings prescribed - Violation of the provisions of Regulation 5 of IRDA (Investment) Regulations, 2000.

Decision: In response to the charge the insurer submits that based on its understanding exposure/prudential norms limits for Unit Linked Funds are monitored at a consolidated ULIP Fund level and submits that it started monitoring exposure norms at each 'segregated fund' level since 01-November-2010 with appropriate system safeguards. Taking into account the submissions af the Insurer, the Authority cautions insurer to ensure compliance to all provisions of IRDA (Investment) Regulations.

2) Charge 2: In Aug 2005 Insurer has taken 2% exposure in subscribed equity shares of a private company. In April, 2009 Insurer increased its stake up to 2.74% of subscribed equity shares of the company with book value of Rs.13.87 cr. All investments pertaining to this company was made from Life fund in contravention to the proviso of section 27A (5) of Insurance Act, 1938.

Decision: In response, the insurer submits that at the time of investment on 13-August-2005 it was of the understanding that the restriction of not investing in a Private company did not apply to Infrastructure investments, hence considered as part of approved investments. The Insurer confirms that as per direction fram the Authority these investments have been transferred from Par Fund to Shareholder Non Solvency Fund on 28th April 2011 at the fair value of Rs 167.86 per share and as a result it is naw compliant with Section 27 A (5) of Insurance Act 1938. Section 27A (5) of the Insurance Act 1938 prohibits investments to be made in Private Ltd. company. On examining the submissions of the insurer I am of the considered opinion that the insurer has violated provisions of Section 27A (5) of Insurance Act, which is regarded as a serious violation. Taking into account the seriousness of the violation, the Authority hereby imposes a penalty of Rs 1,00,000 (Rupees One Lac only) under the provisions of Section 102 of the Insurance Act, 1938.

3) Charge 3: Insurer has invested Rs 45.90 Cr in the PTCs of Indian Railways Finance Corporation Limited (IRFC) where the underlying assets were **locomotives** and categorized as Approved Investment under "*Infrastructure*" – Wrong Classification and violation of Investment Regulations.

Decision: The Insurer submits that it has invested into the Pass through Certificates of IRFC, whose underlying stocks are Railway stocks like Locomotive etc, reading Regulation 3 of IRDA (Investments) Regulations, 2008 in conjunction with Regulation 2 (h) of IRDA (Registration of Indian Insurance Companies) Regulation, 2000 and classified these investments as part of approved infrastructure category. On examining the submissions it is concluded that the underlying assets of PTC which are locomotives, da nat fall within the definition of Regulation 2 (h) of Infrastructure as per IRDA (Registration of Indian Insurance Companies) 2000. On considering the matter, the Authority hereby directs the insurer to de-classify the investments fram the approved investments and reclassify the same under the appropriate head. The Insurer is also directed to ensure compliance to all the relevant regulations while reporting the investment classifications.

4) Charge 4: In respect of certain Investments made in Mutual Funds it was found that they were in excess of prescribed 5% under approved investment category. Investment policy of the insurer was also silent on the concentration of MF investments in a single

fund / scheme. It was also noticed that the Insurer was in practice of investing significantly in Mutual Funds at various segregated fund levels as against investment pattern filed with the Authority. Further, Investments in Mutual Funds were being held under various segregated funds of ULIPs for a period of more than 6 months - Violation of IRDA (Investment) Regulations and IRDA Circular Inv/Cir/020/2008-09 dated 11th November, 2008.

Decision: The insurer, in response, submits that the Mutual Fund limits are monitored at Life Fund level and the mutual fund exposure up to 5% of the AUM of Life Fund was reported as Approved Investments and balance being as Other Investments and based on its understanding that the Mutual Fund Investments are monitored at consolidated ULIP Fund level. The Insurer submits that it has started monitoring Mutual Fund Investment limits at each 'segregated fund' level since 10th April, 2011. As regards investment policy on concentration of Mutual Fund Investments, the Insurer submits that it has been investing liquid mutual fund schemes of approved fund houses to avoid concentration and the revised exposure limit for each mutual fund house has been approved in the Investment Committee meeting held on 17th March, 2011. On the issue of deviating from the norms approved by the Authority regarding investment pattern under File and Use, the insurer admits the violation and seeks lenient consideration as investment in liquid mutual funds are made based on mandate to invest in Money Market Instruments. It also confirms that it has strengthened its process and system to avoid such non compliance. On holding Mutual Fund investments for a period of more than 6 months the Insurer submits that all the investments less than 12 months are considered by it as short term investment and in all the cases the period is less than one year. On considering all the submissions, the issues are not pressed and the Insurer is directed to ensure compliance to all applicable regulations / guidelines.

5) Charge 5: Insurer has categorized some investment that has a rating of **AA-** as "Approved Investment", though, the rating for the security was subsequently downgraded – Violation of Regulation 3 (2) of IRDA (Investment) Regulations, 2000.

Decision: Insurer submits that in respect of these investments made on 05-March-2007, the rating was subsequently downgraded to 'AA-' on 02nd March, 2009 and the security matured on 06th July, 2009. It also submits that there was no market at the time of down grade. Taking in to consideration the submissions made the charges are not pressed.

6) Charge 6: The insurer is not in practice of computing the daily NAV in respect of its ULIP funds, in the manner prescribed by the Authority – Violation of IRDA Circular 0325/IRDA/Actl/Dec 2005 dated 21-December-2005.

Decision: The submissions of the Insurer are that the load factor used is based on the actual expenses that would be incurred in the purchase/sale of the same/similar assets and that the approach is transparent. The Insurer further confirms that it has implemented the Unit Price Methodology based on NAV process Guidelines dated 29th July, 2011. Taking into consideration the submissions made the issue is not pressed.

7) Charge 7: Under guise of utilizing network for marketing and advertisement campaigns the sums ranging from Rs 0.06 Crores to Rs286.92Crores were paid to HDFC, HDFC Bank, HDFC Securities and HDB Fin Services who are the "Corporate Agents" of the Insurer.

Payments on account of the above were also made to various other corporate agents and Brokers which were in the range of Rs 10000 – Rs 5 lacs. It is observed that the Insurer is paying heavy amounts to the employees of some of its Corporate Agents in the name of "Skill Building Programme" and "Training". Payments on account of 'Marketing Expenses' are in violation of Section 40 A of Insurance Act, 1938 and point no. 21 of Corporate Agents' Guidelines (Circular No. 017/IRDA/Circular/CA Guidelines/2005 dated 14th July, 2005). Payments made to employees of Corporate Agents noticed to be in violation of Section 40 (1) of the Insurance Act, 1938.

Decision: Considering the submissions of the Insurer on the "Skill Building Programme" and "Training" that the programmes are conducted for the employees of channel partner for educating them in skills required for conduct of business, charges are not pressed with a direction to the Insurer that no payments in any form on account of insurance solicitation shall be made to any person who is not licensed for the purpose.

With reference to payment of marketing expenses to various other corporate agents and brokers, charges are not pressed considering the quantum involved. However, Insurer is directed to ensure compliance to the relevant provisions of Insurance Act, Corporate Agents' Guidelines and IRDA (Insurance Brokers) Regulations, 2005.

As regards charge on payment of marketing expenses to the Corporate Agents referred (HDFC, HDFC Bank, HDFC Securities and HDB Fin Services), the Insurer submits that it is commercially logical for it to advertise and market life insurance and pension products via the network of Banks and there was no restriction on payment of such expenses prior to issuance of Corporate Agency Guidelines dated 14th July, 2005 which are taken into consideration. It also requests the Authority to view the marketing expenses as an effort to reach out to prospects and also to reach out to large base of untapped customers. Considering the submissions of the insurer, payment of other expenses (Marketing, Advertisement etc.) made to HDFC Ltd. HDFC Bank Ltd., HDFC Securities Ltd. and HDB Financial Services Ltd from the Financial Year 2008-09 onwards are comprehensively examined and the following analysis revealed the magnitude of payments.

Rs in ooos

Corporate Agent / Description	2008-2009	2009-2010	2010-2011
HDFC LTD.			
Marketing Expenses paid by Insurer	-	1600	-
% of Marketing Expenses on First Year Premium	-	7.88	-

% of Marketing Expenses on First Year Premium and Single Premium (Incl Top up)	-	1.11	-
HDFC BANK LTD.			
Marketing Expenses paid by Insurer	2844313	2067268	4277404
% of Marketing Expenses on First Year Premium	32.38	16.68	25.19
% of Marketing Expenses on First Year Premium and Single Premium (Incl Top up)	31.39	16.21	20.65
HDFC SECURITIES LTD.			
Marketing Expenses paid by insurer	7460	57647	133273
% of Marketing Expenses on First Year Premium	9.55	20.78	28.41
% of Marketing Expenses on First Year Premium and Single Premium (Incl Top up)	8.82	19.91	27.45
HDB FINANCIAL SERVICES LTD.			
Marketing Expenses paid by insurer	-	2380	17065
% of Marketing Expenses on First Year Premium		6.00	30.56
% of Marketing Expenses on First Year Premium and Single Premium (Incl Top up)		5.97	30.43

As noticed, the extent of marketing expenses paid, as a percentage on First Year Premium and Single Premium / Top Up premium, to the Corporate Agents referred herein were in the range of 16% to 31% in case of HDFC Bank Ltd., 9% to 27% in case of HDFC Securities Ltd. and 6% to 30% in case of HDB Financial Services Ltd. On examining I consider that these payments are in no way reasonable and also not in commensurate to the First Year premium income generated. The payments made to all these four Corporate Agents are examined as a percentage on First Year Premium, Single Premium / Top up Premium as the marketing expenses paid are purportedly to reach the prospects for customers and to reach out to large base of untapped customers.

On a comparison of the marketing expenses paid by the insurer as a percentage of the advertisement and publicity expenses actually incurred by those entities by themselves, the following is the position.

Description	***2008-09***	***2009-10***	***2010-11***
HDFC	-	*0.16%*	-
HDFC Bank Ltd.	*254%*	*248%*	*269%*
HDFC Securities Ltd	*24%*	*270%*	*461%*
HDB Financial Service Ltd.	-	*0.04%*	*0.8%*

As could be noticed that the actual expenses on advertisement and publicity etc. incurred by those entities, is far less than the marketing expenses paid by Insurer in case

of HDFC Bank Ltd in all the years and HDFC Securities Ltd for the years 2009-10 and 2010-11. The submissions of the insurer that taking into account only the marketing expenses incurred by these four Corporate Agents may not be a correct comparison and that expenses under various other heads like Printing & Stationery, Postage & Telegram shall also be considered as these entities book the costs of acquisition under different heads is considered totally untenable.

On analytically examining the submissions of the Insurer, I conclude that the marketing expenses paid by the Insurer to the Corporate Agents referred herein are completely in violation of Section 40 A of Insurance Act, 1938 and point no. 21 of Corporate Agents' Guidelines (Circular No. 017/IRDA/Circular/CA Guidelines/2005 dated 14th July, 2005). It is observed that there are nine instances of such wrong payments. However, the payments made to M/s HDFC Limited (in 2009-10) and to M/s HDB Financial Services Ltd. (in 2009-10) are considered as a negligible percentage and hence, the Authority concludes that there have been seven instances of wrongful payment and thus the Authority imposes a penalty of Rs.5 lakh for each incidence amounting to a total of Rs.35,00,000 (Thirty Five Lakhs only) under provisions of Section 102 of the Insurance Act.

The penalty referred herein is to be paid by insurer without prejudice to the action which the AUTHORITY would take against the Corporate Agents who have by receiving such payments also violated the regulatory instructions, the onus of which would equally lie on insurer.

8) Charge 8: Provision was not made appropriately towards outstanding premium and commission leading to a reduction of amount shown – Violation of IRDA (Preparation of Financial Statements and Auditor's Report of Insurance Companies) Regulations.

Decision: In its submission the insurer informs that the outstanding premium in case of such policies where premium was outstanding for more than grace period was not included in provisional outstanding premium figures of financial statements for the year 2009-10. As regards outstanding commission the insurer states that it started making provision for outstanding commission from the year 2009-10. On examining the submissions of the Insurer as also keeping in view the impact of the deviations on the Financial Statements the matter is not pressed and the insurer is advised to ensure compliance to the Regulations referred herein.

9) Charge 9: There is no separate product wise review of the losses incurred on the rural business of the insurer under various products – Violation of File and Use norms.

Decision: The Insurer submits that the loss associated with the rural products has been fully borne by the shareholder fund of the Insurer. In light of these submissions the matter is not pressed further.

10) Charge 10: In case of HDFC Endowment Super product, the Authority had directed the insurer to retrospectively delete the condition that *'bumper addition is not payable at maturity in case any partial withdrawals are taken under the policy'*. However, some policy contracts issued by the Insurer contain this clause – Violation of File and Use Circular provisions.

Decision: The Insurer submits that it has removed the condition on all affected policies sold from launch of the product and that there is no financial effect on policyholders as maturities are yet to fall due in all such cases. In light of this the charges are not pressed further.

11) Charge 11: Urban business is classified as rural business– Submission of wrong data relating to Rural and Social Sector Obligations.

Decision: As per the submissions of the insurer, after its' checking and reviewing the data there found few policies which were inadvertently reported as rural and that it was compliance to the rural obligations even after revising the data. Insurer further confirms that the error in the classification of business as rural business has been corrected. In light of this, the charges are not pressed. However, the Insurer is cautioned to ensure data accuracy while complying with rural and social sector obligations.

12) Charge 12: Verification with the list of banned entities and those reported to have links with terrorists / terrorist organisations is taking place after the issuance of the new policy on a fortnightly basis – Violation of Authority's guidelines on Anti Money Laundering (No. IRDA/F&I/CIR/AML/158/09/2010 dated 24th September, 2010).

Decision: The insurer submits that it carries out name matching exercise on a weekly basis and so far no instances of actual match with banned entities have surfaced. During personal hearing the Insurer sought further time up to September, 2012 to put in procedures for verifying the data prior to issuance of contract. In light of the submissions the matter is not pressed and I hereby direct the Insurer to complete the process by September, 2012 and report the compliance accordingly by October 10, 2012.

13) Charge 13:
   a) The Insurer has availed the services of individuals and Corporates which are not licensed by the Authority for Soliciting or procuring insurance business. Instances are also noticed where the Insurer has solicited and procured business from some unlicensed entities and it is being logged in the name of specified persons of Corporate Agents. These are in violation of Section 40(1) of Ins Act.
   b) Further the insurer has engaged the services of "Gruh Finance Ltd." a non banking entity promoted by HDFC Ltd., as a Referral partner in violation of IRDA Circular No. IRDA/CIR/010/2003 dated 27/03/2003.

Decision: a) The submissions of the Insurer that while it had availed the services of 12100 individuals and 4 corporates as Referrals, it had terminated all these

arrangements as of 30th August 2010 in compliance with IRDA Regulations have been considered. However the submission of the Insurer on logging in business procured by unlicensed entities through specified persons of corporate agents, that some of the Specified Persons are operating with multiple codes for MIS purposes is not acceptoble. I am of the considered opinion that the insurer solicited insurance business from unlicensed individuals and entities in violation of Section 40 (1) of the Insurance Act. Under the powers vested with the provisions of Section 102 of Insurance Act a penalty of Rs 5,00,000 (Rupees Five Lacs) is imposed.

b) The Insurer s*ubmitted that 'Gruh Finance' was engaged as a referral partner since there was no explicit prohibition with regard to NBFCs to be appointed as a referral in IRDA Circulars on the subject. The approach of the insurer that lack of explicit prohibition allows them to deviate from the spirit of the circular is unacceptable however, taking into consideration the insignificant business volume involved and the fact that the arrangement has been terminated as of 30th Aug 2010, the charges on the insurer engaging 'Gruh Finance Ltd.' as referral partner is not pressed. However the Insurer is advised to strictly ensure compliance to IRDA (Sharing of Data Base) Regulations, 2010 while engaging referral partners / referral companies.*

14) Charge 14: There are common Directors amongst the Insurer and its Corporate Agents HDFC Ltd., HDFC Bank - violation of regulation 9 (2) (iv) of the IRDA (Licensing of Corporate agents) (amendment) Regulations, 2010.

Decision: The submissions of the Insurer that the common directors have held the position of a director in other companies referred is examined and considering that this is an industry wide matter the charges are not pressed.

15) Charge 15–a) Insurer has paid various amounts to the Brokers towards Marketing Expenses in addition to the Brokerage paid. However, Insurer informs that the payments made were towards *'Data Sharing Arrangements'* and the entities are not Broking firms. On examining the agreements there is a reference to payment as a percentage of 'Net Effective Premium' which are on the lines of referral agreements which is a violation of IRDA Circular on referrals dated 14.2.2003.

b) It is further noticed that the insurer had also remunerated in respect of Group Policies solicited by one of the Brokers in excess of the prescribed limits - which is in violation of Regulation 19 of IRDA (Insurance Brokers) Regulations, 2002.

Decision: a) The Insurer has confirmed that no payments were made to brokers towards marketing expenses and the payments pertain to Integrated Entrepreneurs Pvt Ltd and Religare Marketing Services pvt Ltd as part of data sharing arrangement. It is observed that there is a mention to pay 7.5% of Net Effective Premium in the said agreements which shows that these agreements are akin to referral agreements. The insurer's contention that they have entered into referral arrangements principally in line with Sharing of Database regulations is not acceptable. However, the submissions of the

Insurer that both these arrangements were terminated in compliance with IRDA Sharing of Database Regulations is taken into account and charges are not pressed.

b) With regard to the excess remuneration paid to Religare Insurance Broking Ltd, the insurer submits that the amount stands fully recovered. Considering that the amount involved is not so significant as well as it stands recovered, charges are not pressed.

16) Charge 16 – In respect of its Group Business Death claims under Non-employer employee Group Policies were settled in favour of Master Policy Holder (MPH) and No surprise inspection of the books and records of the Group organizer are carried out as prescribed. It is also noticed that no member data is maintained in respect of the members covered under certain group Schemes–Violation of Clause 5, Clause 7 and Clause 11 of Group Insurance Guidelines (Circular No. 015/IRDA/Life/Circular/GI Guidelines/2005 dated 14-07-2005).

Decision: As regards carrying out the surprise inspection onto the records of Master Policy Holder the Insurer's submission that it has put in place procedures for conducting the said inspection is considered. Similarly with regard to maintenance of membership data the submission of the insurer that the member-wise data is maintained as per the norms is also taken into consideration and no charges are pressed and Insurer is advised to ensure compliance to Clause 5 and Clause 11 of Group Insurance Guidelines dated 14th July, 2005.

However, as regards the practice of the insurer issuing claim cheques in favour of Master Policy Holders of various unorganised affinity groups, its contest that this practice is to ensure the timely payment of the claims and in the interest of the beneficiary is found untenable. Hence, under powers vested under section 102 of the Act, a penalty of Rs 100000 (Rupees one lakhs only) is imposed. The Insurer is hereby directed to ensure compliance to Clause 7 of Group Insurance Guidelines dated 14th July, 2005.

17) Charge 17 - It is observed from the processing of death claims in respect of GTI Schemes of Non- Employer- employee groups, the settlement of claims are substantially delayed - violation of Regulation 8 of IRDA (Protection of Policyholders' Interests) Regulations, 2002.

Decision: As a similar matter relating to the violation referred herein was examined vide order dated Ref: IRDA/Life/Ord/Misc/228/10/2011 dated 04th October, 2011 and an appropriate regulatory action was already taken the charges are not pressed again.

18) Charge 18 -Insurer has outsourced the valuation of Gratuity or Superannuation benefits to the external Actuaries (Mercer Consulting (India) Pvt. Ltd) meeting the cost of the valuation unduly – Violation of File and Use.

Decision: Submission of the Insurer that the valuation of retiral benefit liabilities such as gratuity and leave encashment is an optional service offered to all clients without discrimination is taken into consideration and no charges are pressed.

19) Charge 19 - 'Status' of policy is not correctly updated in the policy administration software of the insurer, for death claim cases leading to inconsistency in reporting the data - Violation of Clause 5 (e) (Annexure – I) of Corporate Governance Guidelines (IRDA/F&A/CIR/025/2009-10 dated 05th August, 2009).

Decision: In its compliance Insurer confirms that the Claims Reconciliation process is put in place and the figures as per Claims data & Public disclosures are tallied up to December 2010 and also confirms that it is taking steps to automate the claims process by 31st January 2012. In light of these submissions no charges are pressed. Insurer is cautioned to ensure accuracy of data in all its disclosures.

20) Charge 20 - Insurer has not paid interest for delayed settlement of certain death claims and in respect of those cases where interest is settled the same is not in accordance to the relevant regulations - Violation of 8 (5) of Protection of Policyholders' Interests' Regulations.

Decision: Insurers submission that the violation occurred due to their interpretation of the regulation is not accepted and the same is a blatant Violation of 8 (5) of Protection of Policyholders' Interests' Regulations. However, keeping in view the submission of the insurer while forwarding compliance that it has subsequently settled the interest in respect of all the cases no charges are pressed. I am constrained to reprimand the insurer for the said violation in respect of certain death claims and Insurer is directed to be more prudent while settling death claims.

21) Charge 21 - Death Claim under Home Loan Protection policies was denied where death occurred within 90 days from the date of commencement of the policy despite the authority advising the Insurer to delete this exclusion clause at F&U approval stage of the product. Violation of File and Use.

Decision: The insurer filed for F&U clearance for Home Loan Protection Policy on 03rd September, 2003 which included a provision of waiting period of 90 days for consideration of death claim. The Authority while considering the F&U clearance for this product had noted the profile and the targeted market segment which was to be addressed. This market segment consists of persons who had primarily obtained a home loan and the policy was supposed to cover the outstanding home loan. For this reason, as there wos no possibility of an adverse selection the IRDA while clearing the policy vide its letter of 6th October 2003, specifically directed the insurer to remove all exclusion clauses other than suicide clause. This would mean removing the clause relating to 90 day waiting period. However, during inspection, a few cases were found where death claims were rejected on the ground that death occurred within the so called waiting period of 90 days. On a further examination, it was found that there were 21 cases which were rejected as the death occurred during the said waiting period.

The insurer sought a lenient view on the ground that from 15th April 2011 they were not applying this particular provision and further since there are only 21 cases, a lenient view sought.

This contention of the insurer is totally unacceptable; in the first instance, the insurer had no business inserting a clause of 90 day waiting period knowing fully well that the Authority had specifically directed that such clause may not be included. This clearly shows the scant regard paid by the insurer to the directions of the Authority on a matter which critically affects the policyholder welfare. It is always open for any insurer to consider the settlement of a death claim in accordance to the provisions of Section 45 of the Insurance Act, 1938. In the instant cases, the insurer has merely applied the 90 day waiting period and has rejected the claim. For this gross and serious violation of the directions of the Authority under File and Use, the Authority has concluded that this is a fit case where a penalty on each occurrence of up to Rs.5 lakhs should be imposed and, consequently, a fine of Rs.1,05,00,000 (One Crore Five Lakhs only) is imposed for this violation.

Further, the Insurer is directed to reopen all the 21 rejected claims and settle them within thirty days of receipt of this order. Insurer is also directed to forward a communication as an endorsement to the original policy contract specifically deleting the clause in respect of all the policy contracts that were issued since the launch of the product and are in force. This task shall be completed within 30 days from the date of receipt of this order and shall confirm to the Authority the action taken report accordingly.

22) Charge 22 – As regards policy claims administration; it is observed that procedures are not in place to capture the detailed claim records. It is also observed that all policy benefits / claims in respect of rural policies are settled in cash to the agents by the insurer without putting in place procedures to ensure their actual reach to the beneficiaries - violation of Section 14 (b) of the Insurance Act, 1938 and absence of prudent claims settlement procedures.

Decision: The Insurer submits that in respect of those cases where the customers do not hold bank accounts and also cannot visit office in person - they were settling the maturity / claim proceeds through the Agents. It also submitted that it has now stopped this practice and now settling claims directly to the claimants. From the submissions and records it is noticed, that there are no tracking procedures to ensure the receipt of claims by the ultimate beneficiary which seriously jeopardises the interests of policyholders. Reasons stated for lack of appropriate procedures are not acceptable and the Insurer is warned not to put the interests of claimants at risk and is advised to make any claim payments directly to the beneficiaries. The Insurer is directed to ensure compliance to Section 14 (b) of the Insurance Act, 1938.

23) Charge 23 - On repudiation of claims the value of units were credited to Surrenders leading to misstatement of surrender benefits paid under financial statements - Violation of General Accounting Principles.

Decision: The Insurer's submission that it has inadvertently credited to Surrender Account which is insignificant as compared to surrender cost is considered and no penalty is imposed. However, the insurer is warned to show greater diligence in such matters.

24) Charge 24–On exercising Free Look Options Mortality Costs are recovered under all "Suvidha" plans even though death cover is excluded in the first 90 days - Violation of IRDA Circular: IRDA/Life/ Cir/13/2009 dated May 27, 2009.

Decision: The Insurer submits that the mortality costs were recovered in respect of 971 policies that work out to approximately Rs 25.7 on an average per policy during 01st June 2009 to 28th October, 2009. The F&U of this policy is examined and is noted that Suvidha products are limited underwritten contracts and the policy was proposed to be issued by the life insurer only on the basis of a short medical questionnaire without full medical underwriting and consequently there was a risk of adverse selection and hence a specific 90 day waiting period was allowed for death claims. The IRDA has noted that for all the 971 policies, the insurance company has collected a premium of Rs.4.19 crores and, after deducting stamp duty, mortality charges, service taxes etc and crediting increase in fund value from the date of allocating units, has refunded Rs.4.28 crores to all the 971 policyholders. In these circumstances, even though the proportionate mortality charges amounting to about Rs.25,000 for the free look period was also deducted in violation of the Circular cited, this charge is not pressed. However, the insurance company is directed to ensure that henceforth, in such circumstances, the proportionate mortality charges are also refunded to policyholders by duly complying with IRDA Circular dated May 27, 2009.

25) Charge 25–(a) It is noticed that free-look cancellations were done beyond Six months period in case of ULIPs. Further, during Financial Year 2009-10 insurer refunded full premiums on 1555 ULIP policies where policy duration was less than 3 years. These are akin to circumventing 3 year lock in period imposed under ULIP guidelines.

(b) It is also observed that ULIP policies issued after 01.01.2007 were surrendered within three years, the prescribed lock in period, from the date of policy – Violation of ULIP Guidelines (Circular No. 032/IRDA/Actl/Dec 2005 dated 21st December, 2005).

Decision: (a) The Insurer submits that it has entertained Free Look cancellations, beyond stipulated period, as these were primarily from aggrieved policyholders. As regards refund of premiums, within the lock-in period, Insurer submits that some of refunds are

owing to an identified mis-sale while some are on customer requests during proposal stage, but received after conversion. Noting the submissions, it is reiterated that regulatory objective of Regulation (6) of IRDA (Protection of Policy Holders' Interests) Regulations, 2002 is to avoid a potential mis-sale so that the customer is entitled for the refund of premium, subject to regulatory provisions, in the event of disagreement with the terms and conditions of the policy document. Indiscriminate consideration of such requests, during the lock-in period, adversely affects the interests of continuing policyholders. Insurer is hereby directed to ensure compliance to the provisions of IRDA (Protection of Policyholders' Interests) Regulations.

(b) As regards surrenders the Insurer submitted that it did not have a system control to ensure that the proceeds of policies surrendered before the lock-in period are blocked from eventual payout till the expiry of lock in period. As per ULIP guidelines, surrender value acquired under a ULIP policy shall be payable only after the expiry of lock in period. From the submissions, it is considered that there are no internal controls put in place to meet regulatory requirements. Hence, I am constrained to reprimand the insurer for violation of the ULIP Guidelines and for not having in place effective internal controls for complying with the regulatory requirements. I also direct the Insurer that it shall ensure compliance to all regulatory instructions without fail.

Accordingly, in exercise of the powers conferred upon me under the provisions of the Insurance Act, 1938, I hereby direct the insurer to remit the penalty of Rs 1,47,00,000 (Rupees One Crore Forty Seven Lacs Only). A penalty of this nature is a regulatory necessity in order to impress upon the management of any insurance company that regulatory prescriptions have to be complied with at all times and failure to do so will entail appropriate regulatory action. If, however, such a penalty is debited to the policyholder's account, then, in effect, the cost would be borne by the policyholders and not by the management. And, in that sense, the regulatory purpose of any regulatory action would be blunted. Consequently, such penalties including the one now imposed shall be debited only to the shareholder's account and no part of the same shall be debited to the policyholder's account.

Hence, as directed, the penalty of Rs 1,47,00,000 (Rupees One Crore Forty Seven Lacs Only) shall be remitted by the Life Insurer, within a period of 15 days from the date of receipt of this Order through a crossed demand draft drawn in favour of Insurance Regulatory and Development Authority and payable at Hyderabad which may be sent to Mr. V Jayanth Kumar, Joint Director (Life) at the Insurance Regulatory and Development Authority, 3rd Floor, Parisrama Bhavan, Basheerbagh, Hyderabad 500 004.

Insurer is also advised to confirm the compliance in respect of all other directions referred in this order within 15 days from the date of receipt of this order.

(J Hari Narayan)
Chairman

Place: Hyderabad
Date: 27th June, 2012