



बीमा विनियामक और विकास प्राधिकरण  
INSURANCE REGULATORY AND  
DEVELOPMENT AUTHORITY

IRDA/LIFE/ORD/MISC/123/05/2012

**Final Order in the matter of  
M/s. ICICI Prudential Life Insurance Company Ltd.**

**Based on Reply to Show Cause Notice Dt 5<sup>th</sup> of January 2012 and Submissions made in Personal Hearing on March 13, 2012 at 03.00 PM at the office of Insurance Regulatory & Development Authority, 3rd Floor, Parishram Bhavanam, Basheer Bagh, 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 ICICI Prudential Life Insurance Company Ltd. (herein after referred to as "the insurer") between 29/11/2010 and 03/12/2010 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 February 02, 2011 and sought the comments of the insurer to the same. Upon examining the submissions made by the insurer vide letter dated 24/02/2011, the Authority issued notice to show-cause dated 5<sup>th</sup> January 2012 which was responded to by the insurer vide reply dated 27<sup>th</sup> January 2012.

A personal hearing was given by Chairman, IRDA on 13<sup>th</sup> of March, 2012 to the insurer upon their request with regard to the show cause notice issued by the Authority. Mr. Sandeep Bakhshi, CEO of the insurer, and his team were present in the hearing. On behalf of IRDA, Mr. Sriram Taranikanti, FA, Mr. Kunnel Prem, CSO (Life), Mr. Suresh Mathur, Sr. JD(Intermediaries), Mr. M. Pulla Rao, Sr. JD (Inspections), Mr. R. Kumar, DD (Investments), Dr. Mamta, JD (F&A), Ms. Meena Kumari, HoD(Actl), and Mr. V. Jayanth Kumar, JD (Life) were present in the personal hearing. The submissions of the insurer in their written reply to Show Cause Notice as also those made during the course of the personal hearing were taken into account.

The findings on the explanations offered by the Life Insurer to the issues raised in the Show Cause Notice dated January 05, 2012 are as follows.

**Issue1- Inspection Observation 2:** The insurer has set limit for Investment in each of the Financial Sector instruments - Banking Services, Finance- assets backed, Housing Finance Services, Infrastructural Finance Services, Non-banking finance services, Financial

Institutions and Other Finance Services at 25% of Investment Asset. This contravenes the provision of Regulation 5 of IRDA (Investment) Regulations. As a result total exposure to 'banking and financial sector' of Balancer Fund as on 31/03/2010 was 37.88%.

***Decision: Unfortunately, the Regulation has not specified the digit-level of the NIC Code at which the total investment exposure is to be calculated. It would not be proper for the Regulatory Authority to take action against any Regulated entity when the Regulation is worded ambiguously. In the circumstances, this charge is dropped.***

***Issue 2- Inspection observation 3:*** In case of some of the funds, pattern of investment is not adhered as prescribed by section 27(1) of Insurance Act as also Reg. 3 of IRDA (Investment) Regulations. The minimum investment in central government and other approved securities individually in respect of par-group life, par-group pension, non-par health, non-par linked health and non-par linked group is not observed.

The Shareholders fund (FRSM) and non-linked policyholders' fund at segregated level as on 31.03.2010 violated the provision of section 27(1) of the Insurance Act and Reg.3 of IRDA (Investments) Regulations. The Violation of IRDA (Preparation of Financial Statements) Regulations, 2002 and Distribution of Surplus Regulations, 2002 are also noticed.

***Decision: The insurer has submitted that the provision of Section 27 of Insurance Act, 1938 is for the Controlled Fund. Regulation 3 of IRDA (Investment) Regulations, 2000 segregates it three categories visualizing- Life business (Controlled fund), Pension and General Annuity business and Unit Linked insurance business. The IRDA recognized the ambiguity in the wording as against the intention of the Regulation. The Regulation has prescribed a maximum exposure in order to limit the risk and thereby contribute to the stability of the insurance industry. The risk is calculated by the volume of investment in any given entity and therefore separating such risk fund-wise is not prudent as, then, the exposure limits can be applied to each fund separately increasing the exposure of the insurance company to the risk of that sector as a whole considerably. For this reason, the IRDA had issued an amendment on 30.7.008 requiring that these limits must be followed for all three funds put together. That instructions, quite obviously, has not been taken into account by the insurer. However, as this is the first time this is noticed, this issue is not pressed and the insurer is advised to realign its investments taking into account the amendment issued on 30.7.2008.***

***Issue 3-Inspection observation 5:*** Insurer has setup a fully owned subsidiary for pension fund management business namely 'ICICI Pension Funds Management Co. Ltd.' It is observed that the physical share certificates are kept by the insurer under its custody and not through a separate custody account as required under Para 10 of Annexure-II of the investment guidelines.

By the above act insurer has violated Para 10 of Annexure-II of the Investment Guidelines, 2004 issued by the Authority.

**Decision:** *The insurer has submitted that the investment is from the Shareholders' fund that is not supporting solvency margin and the same is clearly identifiable. Moreover since March 2011 it is placed under a separate custody account. Taking into account the insurer's submission and rectification action initiated, charge is not pressed.*

**Issue 4-Inspection observation 8(a to e):** The insurer is not computing the daily NAV in respect of its ULIP funds, in the manner Prescribed by the Authority under Para 10.5 of "Guidelines on Unit Linked Insurance Products" dated December 21, 2005.

**Decision:** *Insurer has confirmed that based on the circular no. IRDA/F&I/CIR/INV/187/08/2011 requiring NAV declaration without appropriation/expropriation methodology, they have started declaring NAV as per the new methodology. Hence, no charge is being pressed in this case.*

**Issue 5- Inspection observation 9:** Notional ULIP Funds: The Insurer has 116 different funds offered under various ULIP schemes; however insurer is maintaining only 54 funds.

The Insurer has not maintained strict segregation of Investments between Shareholders and Policyholders funds at 'Scrip' level for every 'individual fund', hence has violated the provision of Para 10 of Annexure II of the investment guidelines, 2004 issued by the Authority.

**Decision:** *The insurer has submitted that the difference between the count of segregated fund and plans arises from the fact that they had certain segregated funds having multiple plans attached to it with plan wise differential charge structure. Taking into account the insurer's submission and their assurance on compliance to revised circular on Fund approval in July 2011, charge is not pressed.*

**Issue 6-Inspection Observation 11:** The insurer has entered into various Agreements / MOUs with its group companies viz., ICICI Bank, ICICI Housing Finance Co., ICICI Securities Ltd., etc. for utilizing their network for marketing, advertisement, and other services. These agreements are incomplete as they do not contain the detailed scope of services and the basis of payments for the said services. It is said that the payment terms would be 'as agreed by both the parties from time to time'. All these companies are also acting as "Corporate Agents/ Referral partners" of the Insurer and are receiving due commission/referral fee. By this actions insurer has violated clause 21 of Corporate Agency Guidelines.

**Issue 7-Inspection observation 12: Additional disclosures on Expenses:**

Expenses under the heads "Business Development Expenses" and "Market Support Expenses" have increased many folds during the financial year 2009-10. These expenses

primarily pertain to the payments made to the distribution channel partners (individual agents, corporate agents, referrals, master policyholders of group policies etc.,) and related parties of distribution channels, in the name of "Sales, Marketing and Business Support Expenses" and "Agents incentives".

By the above acts insurer has violated clause 21 of corporate agency guidelines and Section 40 (2) of Insurance Act, 1938.

**Issue 14(g)(III)-Inspection observation 27(g)(III):** Apart from commissions, other payouts are made to CAs in the name of Branch level marketing and promotional activities, customer awareness programmes, market feedback & other related activities in violation of Clause 21 of Corporate Agency Guidelines 2005

**Issue 14(g)(IV)-Inspection observation 27(g)(IV):** It is observed that Insurer is in practice of paying Non-compete Fee apart from commission to the CAs in violation of Sections 40 (A) & 40(1) of Insurance Act, 1938, Regulation 8(1) of IRDA (Licensing of Corporate Agents) Regulations, 2002 and Clause 21 of Corporate Agency Guidelines 2005.

**Decision:**

***Section 40(1) and 40(A) of the Insurance Act, 1938 limit the payments to any agent by way of remuneration or reward or otherwise to a defined sum. Regulation 8(1) of the IRDA Licensing of Corporate Agents Regulations 2002 requires a Corporate Agent to abide by Section 40 of the Act and Regulation 21 of the Guidelines cited reinforce this concept that a Corporate Agent can be paid only the approved commissions and no other fees or charges or rewards whatsoever except reasonable expenses for co-branded sales literature***

***At the personal hearing, the actual details of payments were again asked for in order to ensure that there is no discrepancy between the figures of the IRDA and that of the company.***

***The insurer's submission that these expenses are for various services viz., banking services, web promotional space, office space for employees of insurer, other joint sales campaigns etc do not relate to garnering/procuring business, is not tenable and are in violation of the Insurance Act and Regulations cited. Even if it is assumed that the payments made are for other services, the following points are noted by the IRDA:***

- (i) The insurer has not produced any agreement with the Corporate Agent specifying the service for which the payments are made;***
- (ii) Heavy payments are paid towards marketing/logistic support and non-competing fee which are specifically against the provisions of the Act***

**(iii) It is noted that in all cases the payments made are several percentage points more than what is permissible**

**(iv) The payments made to different entities have a strong correlation with the first year premium and hence cannot be deemed as being independent of business procurement. The payments are in deviation of the limits prescribed in Section 40A of Insurance Act, 1938 as captured in the following table:**

Financial Year 2009-10			
Name	Maximum commission payable as per Section 40A of Insurance Act 1938	Actual amount paid	%age deviation
India Infoline Insurance Services Ltd.	2,97,23,408	49,33,89,463	1559.94%
Nandi Financial Services	56,525	1,17,540	107.95%
Netambit ValueFirst Services Limited	39,63,04,011	58,22,07,995	46.91%
Soft Insurance Services	1,06,40,695	1,17,58,133	10.50%
Fullerton India Credit Company Ltd	1,40,29,918	6,79,54,175	384.35%
Financial Year 2010-11			
India Infoline Insurance Services	31,68,586	36,26,86,815	11346.33%
Yule Investments Pvt Ltd.	90,479	4,87,691	439.01%
Netambit ValueFirst Services Ltd	13,48,98,522	26,52,44,519	96.63%
Alacrity Financials	15,03,369	16,74,619	11.39%
SHAREKHAN FINANCIAL SERVICES	20,90,337	31,96,776	52.93%

**This is an exceedingly serious violation. The Authority is empowered to impose a penalty of Rs.5 lakhs under Section 102 (b) of Insurance Act, 1938, for every case where such violation has been observed. However, as noticed from the table above, the violations are serious in 8 instances and consequently a penalty of Rs.40 Lakhs is imposed on the insurer.**

**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 also violated the regulatory provisions.**

**Issue 8-Inspection observation 15: Revaluation of Investment Property:**

A property was leased to M/s. ICICI One Source Pvt. Ltd., up to 15<sup>th</sup> October, 2012, prior to acquisition of the property by the insurer. There was no change in the terms of lease. The rent is inconsistent with the value of the property. The lease arrangement is not on commercial lines and Arms length basis.

**Decision: The insurer submitted that the property was already let out at the time of purchase till the time mentioned above, hence there was no scope for renegotiation and the investment was duly approved by the board after due diligence. Taking in to account**

**the insurer's submission as well as the fact that the property valuation was duly modified, charge is not pressed.**

**Issue 9-Inspection observation 17:** The insurer has not paid any premium to Reinsurer (RGA & Swiss Re) during the year 2009-10 and 2010-11 as on the date of inspection. Though it was agreed by the insurer in compliance to the internal audit query to complete the enhancement process and payment of premiums by April 2010, the same could not be completed as on the date of inspection leading to Violation of item 2 (c) of Annexure I - Responsibilities of the Board of Directors (Corporate Governance).

**Decision:** *The Insurer has submitted that their board approved reinsurance policy articulates its approach to reinsurance, evaluation of benefits and review mechanism. They further state that they were in constant touch with Swiss Re and RGA regarding acceptance of claims and underwriting risk and there was no communication with regard to discontinuance of reinsurance cover during the said period. It is also submitted that not a single claim was rejected owing to delay in payment of reinsurance premium. The insurer confirms settlement of the reinsurance premium in full in October 2011. The submissions of the insurer are accepted and the charge is not pressed. However the insurer is advised to strictly administer the reinsurance cover continuously and duly report to the Authority as per the stipulations.*

**Issue 10(a)-Inspection observation 22(a):** It is noticed that claims have not been paid even after admission under the pretext of non receipt of KYC documents. Insurer has also not paid any amount as interest on the claim amount for such delayed settlements. 9% of the total outstanding cases are pending for settlement just for KYC documents leading to Violation of Regulation 8 of IRDA (PPI) Regulations, 2002.

**Decision:** *The insurer submits that they have reevaluated their claims process and taken corrective action. They confirm that they have only one claim as on 30<sup>th</sup> January 2012 pending payment. They have also confirmed that penal interest would be paid in all such claims. While the charge is not pressed owing to the submissions made by the insurer, they are strongly advised to strictly abide by Regulation 8 of the IRDA Protection of Policyholders' Interest Regulations, 2002.*

**Issue 10 (c,d and e)-Inspection observation 22 (c, d and e):**

c) Commission is being paid to agents on premiums funded by the insurer under Smart Kid Policies where premium waiver benefit is admitted on the death of the proposer

(d) Future premium are not funded in some Smart Kid Policies where death claim is admitted

(e) Some of the death claims, where only unit fund value is paid on repudiation of claim, still exist in policy administration system. This causes higher fund value / units than the actual

fund value/units and affects NAV Computation leading to Violation of Sec 12 of their R-2 application filed with the authority and Sec 7 of Annexure-1 of the Corporate Governance Guidelines dated 29.1.2010

**Decision:** *The insurer has admitted a system lapse in commission payment and confirmed recovery of all such amounts. They also confirm taking corrective action in funding premium waiver benefit. They further submit that correct fund value was paid to the beneficiaries and proper systems built for non recurrence of such errors. In view of the action taken, charge is not pressed.*

**Issue 11-Inspection observation 23 (a):** If a policyholder opts for annuity from other insurance company (Open Market Option), on vesting of annuity policy, the insurer is sending the cheque drawn in favor of the opted company directly to the policyholder. No verification is done to ascertain whether an annuity was indeed purchased by the policyholder or not which gives scope for 100% commutation/surrender of pension policy after vesting date leading to Violation of provisions of Sec 12 of their R-2 application filed with the authority and Sec 7 of Annexure-1 of the Guidelines on Corporate Governance dated 29.1.2010

**Decision:** *The Insurer submits that the cheque is always drawn in favour of the insurance company and sent to the customer with a letter explaining the details, therefore enabling the customer to be properly informed to take an expedient action. In view of the submissions made, charge is not pressed.*

**Issue 12-Observation 25:** As per para 3.1.9 (iii) of AML Master Circular 2010, KYC checks should be carried out on third party assignments. Insurer has not carried out due diligence when assigning policies to third party individuals; firms and non-profit organizations. By the above act insurer has violated AML Guidelines i.e. Point no.3.1.9 (iii).

**Decision:** *The insurer has submitted that the identified cases are transactional errors and they have established proper systems and procedures as per the above guidelines. Taking into account the insurer's submission and consequent action of completing the assignees KYC, charge is not pressed. However, the insurer is strongly advised to strictly follow the provisions of the captioned guidelines.*

**Issue 13-Observation 26:** Insurer has allowed surrender of Unit linked policies within the lock in period leading to Violation of provision 4.1 i.e. lock-in provisions of ULIP Guidelines of 21.12.2005

**Decision:** *Taking into consideration insurer's submission that this was an exception for a specific policy due to error in the policy administration system, charge is not pressed. However, the insurer is advised to ensure that such deficiencies are plugged through regular system audit.*

**Issue 14(a)-Inspection Observation 27(a):** The insurer is creating multiple code numbers for single corporate agent and brokers based on the location of the business procured. The insurer has not put in place any mechanism to verify, that the solicitation of business is done by a specified person or a qualified person respectively in relation to no. of locations/branches. Therefore the limited number of Specified person/ qualified person compared to the large number of locations tantamount to sourcing of significant part of the business through unlicensed persons. The insurer has violated Section 40(1) of Insurance Act, 1938& Regulation 9(2)(ii)(a), of IRDA(licensing of corporate agents) Regulations,2002.

**Decision:** *The provisions of the Insurance Act and Regulations which have been cited require that only a licensed Specified Person can solicit insurance business. The fact that insurer has created multiple code numbers for the same Corporate Agent based on location of business procured without the insurer checking that solicitation of business is being done by a specified person has not been denied by the insurer. The insurer has merely submitted that these code numbers were generated as per the requests received from corporate agent/broker. From the inspection, it is evident that there are several similar cases where the number of Specified Persons is grossly disproportionate to the number of locations in which the Corporate Agent is functioning, the details of which are elaborated in the table below:*

Corporate agent name	Number of Places Business procured	Number of SPs
Bonanza Finproducts Distributors P Ltd	16	1
Fullerton India Credit Company Ltd	259	1
Muthoot Wealth Management Services Private Limited	21	3
Pioneer Assurance Consultants Ltd	20	2

***It is beyond the bounds of credibility that a single Specified Person can service so many locations and quite clearly, the insurer has connived in the violation of regulations by its Corporate Agents and has failed in its primary duty of suitably regulating its Corporate Agents in abiding with the Insurance Act and the Regulations under which insurance business can be conducted in India. Therefore, the submissions of the insurer are held to be without any basis and hold no water. This violation is a significant violation because it encourages sale of insurance by unqualified persons and opens gates to several malpractices such as mis-selling, multiple level marketing etc. For all these reasons, the IRDA is satisfied that this is a grave matter and a deterrent punishment must be imposed on the insurer. There are four instances of violation noticed during the inspection and therefore, a penalty of eleven lakhs under Section 102 (b) of Insurance Act, 1938 is imposed on the insurer (Rupees Five lakhs in the case of Fullerton and Rs Two lakhs each for the other three entities)***

**Issue 14(d)-Observation 27(d):** The Insurer is remunerating the Referral partners in the name of Infrastructure support. Insurer is paying exclusive infrastructure fee (upfront) and costs towards space for insurance specialists, insurance corner space, advertising, etc leading to Violation of point no.6 of the referral circular dt.14.2.2003.



**Decision:** Clause VI of the Circular referred lays down specific payment limits as fees to banks which offer referrals to insurance companies. It should be noted that this Circular permits referrals only by Banks and not by other entities. However, under the cover of this Circular, the insurer submits that they have entered into referral arrangements with at least 14 entities. Even allowing for the insurer's understanding of the circular referred to, the actual payment as referral fee to the entities concerned is far in excess of what has been permitted. The table below gives the details:

Financial Year	2009-10	2010-11
Number of referral entities where Fee under various head is above 55% of the premium received through the entity	14	6

***The insurer has therefore violated the above referred provision in 20 instances. The IRDA notes that the insurer has grossly mis-interpreted the Circular referred to despite a clear direction to them vide letter dated 11<sup>th</sup> March 2010.***

**In view of the above, the IRDA imposes a penalty of Rs.40 lakhs (20 X 2) under Section 102 (b) of Insurance Act, 1938 for the above violation.**

**Issue 14 (e)-Observation 27 (e):** The Insurer has floated contests for the Referral Partners (both Bank referrals and non-Bank Referrals) and expenses were incurred on these entities in the name of contests in violation of the provisions of Circular No. IRDA/Cir/004/2003 dated 14.02.2003 and 07-02-2008.

**Decision:** *The insurer's submission that the concept of rewards and recognition programs help them for garnering business efficiency is not acceptable with respect to the referral partners in view of their limited role. As there is a clear violation of the referred circulars, a penalty of Rupees Five Lakhs under Section 102 (b) of Insurance Act, 1938 is imposed on the insurer.*

**Issue 14(f)-Inspection observation 27 (f):** The Insurer is obtaining leads from many Corporates and agreements are entered in this regard and payments are made to these entities. Even after the issuance of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010, Insurer is continuing the relationship. These entities are directly or indirectly connected to their Corporate Agents or Brokers leading to Violation of Regulation 6(1) of the Sharing of Database Regulations 2010.

**Decision:** *The insurer has confirmed discontinuance of existing referral contract as per the requirement of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010. Taking into consideration the insurer's submission, charge is not pressed. However, the insurer is advised to strictly abide by the provision of the above regulations.*

**Issue 14(g)(II)-Observation 27(g)(II):** Mr. Haribansh Singh, Mr Surendra Mishra and Mrs. Kumkum Mishra (wife of Mr Surendra Mishra) are associated with many entities related to insurance business like Corporate Agents, Lead providers, Business Mentors, Channel Development Associates etc. in the capacity of Directors and Key Management Personnel. This is in violation of Regulation 9(1)(a) of IRDA (Licensing of corporate agents) Regulations,2002.

**Decision:** *The insurer has submitted that the referred individuals were director and key management personnel of their corporate agent –M/s Soft Insurance Services Pvt Ltd. They clarify that they had terminated the corporate agency in April 2010 as they did not live up to their internal behavioral benchmarks. They further confirm that Oven Commerce Pvt Ltd was their business partner whose services were availed to train their sales force and hence this arrangement is not in violation of the corporate agency regulations since the entity was a business partner and not a corporate agent. After examining the insurer's submissions, it is concluded that there has been no violation of the referred regulations and hence charge is not pressed.*

**Issue 14 (h)-Observation 27(h):** It is observed that, apart from commissions, huge other payouts are made to Brokers in the name of Branch level marketing, promotional activities, customer awareness programmes, market feedback & other related activities. This has violated Sections 40 (A) & 40(1) of Insurance Act, 1938, Regulation 19 of IRDA (Insurance Brokers) Regulations, 2002.

**Decision:** *Regulation 19 of the IRDA Insurance Brokers Regulations, 2002 limits the payment of remuneration or administration charges or other compensation to a Broker to a defined sum. At the personal hearing, the actual details of payments were again asked for in order to ensure that there is no discrepancy between the figures of the IRDA and that of the Company. The payments made based upon first year commissions realized by different brokers and deviation of the same from the limits prescribed in IRDA (Insurance Brokers) Regulations, 2002 is captured in the following table:*

Financial Year 2009-10			
Name	Maximum remuneration payable as per IRDA (Insurance Brokers) Regulations, 2002	Actual amount paid	%age deviation
Anand Rathi Insurance Brokers Ltd.	55,41,720	57,98,495	4.63%
Bajaj Capital Insurance Brokin	3,16,30,504	8,00,05,030	152.94%
Standard Composite Insurance Brokers L	75,70,664	3,80,45,106	402.53%
Artha Insurance Broking Services Ltd	1,09,28,362	1,49,28,008	36.60%
Financial Year 2010-11			
Anand Rathi Insurance Brokers	26,33,037	26,41,946	0.34%
K.M. Dastur Reinsurance Broker	6,404	12,303	92.12%
Edelweiss Insurance Brokers Lt	1,57,234	1,57,664	0.27%

***The insurer's submission that these expenses are for various services viz., banking services, web promotional space, office space for employees of insurer, other joint sales campaigns etc do not relate to garnering/procuring business, is not tenable and are in violation of the Regulations cited.***

***This is an exceedingly serious violation. The Authority is empowered to impose under Section 102 (b) of Insurance Act, 1938 a penalty of Rs.5 lakh for every case where such violation has been observed. However, recognizing that there has been a wide deviation in four instances as seen from the table above, a penalty of Rs 20 lakhs is imposed on the insurer.***

***The penalty referred herein is to be paid by the Insurer without prejudice to the action which the Authority would take against the Brokers who have also violated the regulatory provisions.***

**Issue 14(i)(I)-Inspection observation 27 (i)**

**(I):** Insurer is in practice of hiring the services of Individuals, Partnership firms, Corporates, HUFs etc., for the purpose of identifying potential advisors (agents), training to the agents mapped to them, post recruitment mentoring and ensuring agents adhere to code of conduct etc. All such entities are appointed as Business Partners and they are not licensed.

(II) The BPs are remunerated by training incentive as a fixed percentage basing on the premium brought in (slab basis) by the agents mapped, business development fee based no. of advisors licensed in a month (slab basis) , infrastructure support fee (as per the conditions of agreement), and training and development support fee based on the no. of advisors activated.

(III) To study the method of calculation of various payouts to Business Partners, the calculation process in respect of seven BPs were sought. However, Insurer has provided the details in respect of 'Mr. Tapasi Biswas' and 'MIS Oven Commerce Pvt. Ltd' only.

(IV) The details regarding eligibility criteria to become Business partner, the process of mapping the advisors to the Business Partners etc., are not provided by Insurer. Hence a detailed study could not be done on this channel.

(V) As per the information provided by Insurer, there were around 4,184 BPs and an amount Of ` 34.51 crores was paid to these BPs during 2009-10 and an amount of ` 19.05 crores was paid in respect of 2704 BP's during the period 1.4.10 to 30.6.10

(VI) Remuneration to BPs is based on the business procured by other licensed agents or intermediaries are in gross violation of the provisions of Sections 40(1) & 40(A) of Insurance Act, 1938.

By the above act insurer has violated Sections.40 (A), 40 (1) and 42D of Insurance Act, 1938.

**Decision:** *The IRDA has noted that there is a need to guide individual agents for sale of insurance policies. In order to increase penetration, insurers including the LIC have instituted mechanisms similar to Business Partners (BP) which is the subject matter of this charge. In the LIC, for instance, role of BP is conducted by a Development Officer who is on the rolls of the insurance company and is also given an incentive based upon the sales turnover of his group of agents. Recognizing this trend, the IRDA had issued Exposure Draft Guidelines to regulate such activities. In view of this, this charge is not pressed.*

**Issue 15 – Inspection Observation 28:** Insurer is in practice of paying 25% of single premium received to the Master Policyholders towards the Administrative Support costs.

**Issue 16 – Inspection Observation 29:** The insurer has remunerated the Master Policyholders in the name of 'Market Support Fee' or 'Administrative Fee' to the entities viz., ICI Bank, Fullerton India Credit Company Limited, etc

These are violation of clause C.4 of IRDA's Guidelines on Group Insurance policies dated 14.7.2005.

**Decision:** *The insurer has submitted that the group administrator carries out activities like tracking of new members and exits, informing member about the benefits/feature/conditions of the cover, collecting due consents from the members to avail the cover, collecting premium for the cover, providing loan schedules to insurers, liaison with members and insurer etc. They further submit that some of the arrangements were existing prior to the group guidelines and are required for greater penetration, higher protection and providing quality and prompt service to the member. The insurer's submission is not acceptable in view of clear prohibition with regard to payments in the Guidelines on Group Insurance dated 14.7.2005. A penalty of Rupees Two lakhs is therefore imposed under Section 102 (b) of Insurance Act, 1938 on the insurer for the violation*

**Issue 17 – Inspection Observation 30:** It is not clear from Clause 6 of Policy Certificate (ICICI Bank Credit assure policy-Certificate Nos. 13888003, 14468120) that the balance of claim amount, if any, is paid to the nominee of the insured member although they confirmed to the Authority through their letter dated 19/01/2007 that the policy certificate and sales literature are modified to that effect. This is leading to violation of clause C7 of Group Guidelines.

**Decision:** *The insurer has submitted that they are following the Terms and Condition of the policy diligently and the clause was inadvertently absent in the policy certificate. However, the same is incorporated at present. Taking into consideration the insurer's submission, charge is not pressed. However, the insurer is advised to abide by the Group Guidelines strictly.*

**Issue 18 – Inspection Observation 31:** The Insurer is settling part death benefit to the Group Master Policyholder in non-employer-employee cases in respect of 'Group Term Insurance Policies' (as observed under Ujjivan financial services, policy no 855, 840) in violation of Clause C-7 of Group Guidelines, 2005.

**Decision:** *The insurer has submitted that Ujjivan Financial Services Limited Company is a microfinance institution and the policy covers its borrowers. The claim payment is however made to the group administrator who in turn, settles the balance amount after deducting outstanding loan thereof, which the insurer ensures through collecting discharge voucher from both group administrator and nominee of the deceased member. Taking into consideration the insurer's submission charge is not pressed. However, the insurer is advised to strictly ensure the compliance to the above clause of Group Guidelines, 2005.*

**Issue 19 – Inspection Observation 32:** The Insurer has neither carried out any surprise inspection of the books and records of the Group organizer or manager, at least once a year to ensure total compliance with the Group Guidelines, 2005 nor obtained a certificate of such compliance from the auditors of the Group organizer or manager as required under Clause 11 of Group Guidelines, 2005. This is a violation of clause C-11 of Group Guidelines, 2005.

**Decision:** *Taking into consideration insurer's submission that they collect the certificate from the Auditors of the Group Administrators and in case of some informal groups organize surprise inspections, charge is not pressed. However, the insurer is advised to strictly ensure the compliance to the above clause of Group Guidelines, 2005.*

**Issue 20 – Inspection Observation 33:** Insurer is floating contests to Group Policyholders and making payouts to them in violation of the referral circular dated 7.2.2008.

**Decision:** *Taking into account, the insurer's submission that the same was wrongly accounted charge is not pressed.*

**Issue 21 – Inspection Observation 37:** The Insurer is canceling policies under 'free look' option even after few years of issue of the policies, major reason cited as erroneous accounting which indicates absence of necessary system controls in allowing free-look option. The fresh policies issued against them were surrendered soon. The insurer is conveniently using free-look option to circumvent the minimum lock-in period applicable for surrenders. Settlement of free look option is observed to be inconsistent with total premium being refunded in some cases, Fund value in some cases and Fund value plus interest in some cases leading to **Violation of provision 6(2) of IRDA (Protection of Policyholders' Interests) Regulations 2002.**

**Decision:** *Taking into consideration the insurer's submission that the cancellation of the policy under Free Look option after the mandatory free look period is not a beneficial interest for the insurer and considering that the insurer has reviewed such requests on a case to case basis, charge is not pressed.*

**Issue 22 – Inspection Observation 39:** In the sampled cases it is observed that there are few F&U violations in issue of policies with regard to Minimum premium, Term allowed, Sum Assured allowable, age at maturity etc. Hence, the insurer has violated the "File & Use" Guidelines.

**Decision:** *Taking into consideration insurer's submission that the observed cases are exceptions and systems are set right after identifying such aberrations, charge is not pressed.*

**Issue 23 – Inspection Observation 41:**

a. Incomplete, unsigned and improper answers in proposals (10096191, 10096192, 10096193, and 10096194) are found to have been processed by the Insurer as a result of which the rural status of the proposer could not be ascertained.

b. Preprinted proposals with duly filled details are being processed by the insurer in some cases (11073520, 11073514, 11073507). Illegible rubber stamps in place of proposer are also being used without proper validation of the authorized signatory.

By the above act insurer has violated 2 (c) and 2(d) of IRDA's (Obligations of Insurers' to Rural & Social Sectors) Regulations 2002

**Decision:** *The insurer's submission with respect to (a) above with documentation of census reporting of rural centers is accepted and charge is not pressed. It is observed that the insurer is relying on the customer data available with the MFI or SHG without directly recording the information from the prospects with regard to information in the proposal form. The insurer is strongly warned to desist from such practices which are against the interest of the policyholders.*

**Issue 23 – Inspection Observation 41:**

c. Insurer has allowed a third party (not being the intermediary who procured the business) to collect premiums from policyholders and remit to him in one lump sum as observed in the case of 'Uttarakhand state co-operative federation Ltd.'

A lot of delay is observed between the proposal date, remittance date and the completion date. The insurer has violated Regulation 4(6) of IRDA (Protection of Policyholders' Interests) Regulations 2002

***Decision:*** *The insurer submitted that the arrangement of consolidated cheque is to reduce administrative cost for rural small ticket size policies and the observed cases were delayed due to certain discrepancies in the forms received, delay in sending the premium cheque/ demand draft by Micro Finance Institutions.*

*In view of the insurers confirmation that they have now corrected their internal processes to ensure strict adherence to Regulation 4(6) of IRDA (Protection of Policyholders Interests) Regulations, 2002, the charge is not pressed. However, with respect to collection of premiums in a single lump sum, the insurer is advised to desist from this practice unless a proper agreement is established for collection of premium.*

**Issue 23 – Inspection Observation 41:**

Under rural policies, though proposals on individual lives are being obtained and policies issued separately, the model appears to be akin to group policy mechanism where under all the payments are being received through the MFI/NGO/NBFC in lump sum. Policies are dispatched to them as all the proposals bear the communication address of these institutions. Also claims are being settled in favor of these entities to be disbursed to the claimants, even in cases which have not been proposed by them leading to Violation of Reg.5 and 8 of the IRDA (Protection of Policyholders' Interest) Regulations 2002.

***Decision:*** *The insurer's submission that the policy belongs to members of MFIs/SHGs having debtor-creditor relationship and the services of those MFIs/SHGs is pivotal and necessary to cater and administer such small ticket size remote placed policies has been taken into consideration. The charge is therefore not pressed. However, recognizing that the interest of the policyholders should be protected especially on disclosures, coverage of risk and settlement of benefits, the insurer is advised to take all measures so as to ensure that regulatory provisions are not deviated.*

**Issue 23 – Inspection Observation 41:**

e & f. In some instances it is noticed that the insurer has appointed non banking entities as referrals, thereby violating referral guidelines dated 14.2.2003

***Decision:*** *The insurer has submitted that such arrangements were in existence prior to issue of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010 under the provisions of IRDA (Insurance Advertisement and Disclosure) Regulations,*

**2000, and these arrangements are terminated following issue of IRDA (Insurance Advertisement and Disclosure) Regulations, 2000. Taking into consideration insurer's submission, the charge is not pressed.**

**Issue 24 – Inspection Observation 42:** a) No communication was sent to the policy holders in some of the closures and/or Mergers (For ex. Mankondur, Hindupur, Bari, Umralla etc). b) Even in cases where the communications are stated to have been sent, it is not 2 months in advance of the closure of a branch. c) The e-mail and/or SMS are only used to communicate thus not covering all the policyholders. These are in Violation of Circular dated 28/12/2006 on offices.

**Decision: In light of the Insurer's submission which confirms compliance with the circular on office closures, charge is not pressed.**

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 118 Lakhs within a period of 15 days from the date of receipt of this Order** through a cross demand draft drawn in favour of Insurance Regulatory and Development Authority and payable at Hyderabad which may be sent to Sri Kunnel Prem at the Insurance Regulatory and Development Authority, 3rd Floor, Parisrama Bhavan, Basheer Bagh, Hyderabad 500 004.

Place: Hyderabad,  
Date: 24<sup>th</sup> May 2012

  
(J Hari Narayan)  
Chairman