



भारतीय बीमा विनियामक और विकास प्राधिकरण  
INSURANCE REGULATORY AND  
DEVELOPMENT AUTHORITY OF INDIA

Ref: IRDA/Enf/ORD/ONS/081/04/2017

**Final Order in the matter of**

**M/s Tata AIG General Insurance Company Limited**

**Based on reply to the Show Cause Notice dated 8<sup>th</sup> December, 2016 and submissions made during Personal Hearing on 10<sup>th</sup> February, 2017 at 11-00 am taken by Member (F&I) at the office of Insurance Regulatory and Development Authority of India, 3<sup>rd</sup> Floor, Parishrama Bhavanam, Basheerbagh, Hyderabad.**

**Background:**

The Insurance Regulatory and Development Authority of India (hereinafter referred to as "the Authority") carried out an onsite inspection of M/s Tata AIG General Insurance Company Limited (Hereinafter referred to as "Insurer") during 10<sup>th</sup> to 19<sup>th</sup> December, 2012.

The inspection was intended to check the compliance of the insurer to Insurance Act, 1938, IRDA Act, 1999 and the Rules, Regulations, Circulars, Guidelines and other directions issued there under by the Authority.

The Authority forwarded a copy of the report of the said inspection to the Insurer seeking comments on 21<sup>st</sup> May, 2013 and the insurer's comments were received vide their letter dated 26<sup>th</sup> June, 2013. Upon examining the submissions made by the Insurer, the Authority issued Show Cause Notice on 8<sup>th</sup> December, 2016, which was responded to by the Insurer vide letter dated 9<sup>th</sup> January, 2017. As requested therein, a personal hearing was given to the Insurer on 10<sup>th</sup> February, 2017. Mr. Neelesh Garg, MD & CEO, Mr. Kurush J Daruwalla, Chief Operating Officer & Company Secretary, Mr. M.Ravichandran, President – Insurance, Ms.Parvathi Singh, Chief Claims officer, Mr.Madhukar Sinha, SVP-BIU & Strategic projects and Mr. Ramji Mishra, Compliance officer were present in the hearing on behalf of the General Insurer. On behalf of the Authority, Mrs V.R.Iyer, Member (F&I), Mr. Prabhat Kumar Maiti, GM (Enforcement), Mr.Mahipal Reddy, DGM (Non-life) and Mr. K.Sridhar, AGM (Enforcement) were present during the personal hearing.

The submissions made by the insurer in their written reply to the Show Cause Notice, the documents submitted by the insurer in evidence of their submissions in reply and also those made in and after the personal hearing have been considered by the Authority and accordingly the decisions thereon are detailed below.

## **Charges, Submissions in reply thereof and Decisions:**

### **1. Charge No. 1:**

The insurer issued policies to some of its clients against Bank Guarantees. The insurer failed to receive the payment within the stipulated period.

#### **Violation of:**

Section 64 VB of Insurance Act 1938 read with Rule 58(i) of Insurance Rules, 1939.

#### **Submission of Insurer:**

The Company had a valid and live bank guarantee in place in respect of the observed cases. The company also stated that it has robust mechanism to follow up premium due cases supported with bank guarantee cases and ensures that the premium is received within the time limits specified in Insurance Act / Rules. Though there was an inadvertent delay in realizing the guarantee amount of one corporate client, the payment was realized within the bank guarantee validity period.

#### **Decision:**

Rule 58(i) of Insurance Rules, 1939 has given relaxation to section 64VB of Insurance Act, 1938 w.r.t acceptance of certain risks without advance premium. The Rule states that in respect of a Banking guarantee, premium should be received before the end of the calendar month next succeeding to the month in which the risk is assumed. The inspection observation is not on the validity of the bank guarantee as replied by the insurer but whether the date of realisation of the bank guarantee was within the time period prescribed under the Insurance Rules, 1939 or not. On examining the submissions of insurer and available documents, it is noted that the bank guarantee with regard to three corporate clients' was not realized as prescribed in the Insurance Rules.

**The Authority directs the insurer to ensure full compliance at all times to Section 64 VB of Insurance Act and relevant Insurance Rules. Any non compliance observed hereinafter would be viewed seriously.**

### **2. Charge No.2**

The insurer had considered the expenses of Rs.3.59 crores incurred on improvements made to the leased property viz., false ceiling, cabling, interiors, work station etc., under the head 'available assets' in arriving at the solvency margin. As a consequence, solvency ratio as at 31-03-2012 arrived was 1.40 instead of 1.38.

Further, the Audit Committee of the insurer has also noted that the insurer had considered lease hold improvement at book value in arriving at solvency margin and against the auditors opinion insurer considered the leasehold improvements in arriving at the solvency margin.

**Violation of**

Point I (i) under Schedule I of IRDA (Assets, Liabilities and Solvency Margin of Insurers) Regulations, 2000.

**Submission of Insurer:**

The Regulations are silent on the Leasehold Improvements. Hence, the Company considered the same at the Book Value and not at Zero. However, subsequent to the Authority pointing out the same to the Company, the Leasehold improvements have been considered at zero value.

**Decision:**

The Authority notes from the submission that after the inspection observation, the insurer has rectified the methodology for computation of the said ratio in line with the requirement of the Regulation and also the solvency ratio as at 31/03/2015 and 31/03/2016 is well above the prescribed limits, hence the charge is not being pressed. Insurer is advised to ensure compliance with the Regulation 1(1-i) under Schedule I read with Regulation 3 & 4 of IRDAI (Assets, Liabilities and Solvency Margin of Life Insurers) Regulations, 2016.

**3. Charge No.3**

- a) Motor dealer with corporate agency license no. 1264625 (producer code 00015140001) is also acting as vendor with code no. 0001514000. Similarly, M/s T.V.Sundaram Iyengar & Sons is a corporate agent of M/s Royal Sundaram to whom insurer is making payment under commission head and infrastructure support.
- b) Insurer has paid additional payouts over and above commission to corporate agents during the FYs 2010-11 & 2011-12 towards infrastructure arrangements.
- c) Insurer floated contests and awards for its distribution channels in the financial years 2010-11 and 2011-12 and also made payments to individual agents under the accounting head Fees for Profession or Technical Services. The said

payment vouchers were not submitted to the inspection team for examination during the inspection.

**Violation of**

- a) Para 8.4/5 of outsourcing guidelines dated 1/2/2011.
- b) Circular no.011/IRDA/Brok-comm/Aug-08 dated 25-08-2008
- c) Clause 21 of circular no.015/IRDA/Life/circular/GI guidelines/2005 dated 14-07-2005.

**Submission of Insurer:**

- a) We state that motor dealers are an Integral part of the Auto sales business in India. They provide us with infrastructure to operate and payments made were towards infrastructure of the dealer. WebPOS facility is made available in the infrastructure at motor dealer's place for our company personnel to issue policies. The company had more than 2000 employees including off roll whose responsibility included operating Web Pos at dealer's premises. In all these cases, business is solicited by authorised licensed agents or brokers or by employees on roll of Tata AIG General Insurance Companies.
- b) We would like to state that all payments made by the Company have been transparently disclosed to the Authority. To utilize the infrastructure, the Company has entered into arrangements to share their infrastructure and possibility of display advertisements. The payments other than commission are towards facilities/services used under these agreements which are not relating to canvassing of insurance business. The company has dealt with the entities in two different capacities viz as corporate agents and as facility service provider. This has been evidenced by relevant agreements and invoices for the services received.
- c) We would like to state that contests and campaigns are run to motivate employee, retainers and channel motivation to achieve higher levels of performance and the payments other than commission are towards such services rendered which are not towards canvassing of insurance business. We were extremely prompt in furnishing documents as and when demanded at the time of inspection.

**Decision:**

- 1) Clause 21 of the Authority circular dated 14-07-2005 on 'Guidelines on licensing of corporate agents' instructs an insurer not to enter into additional relationship with a corporate agent with payment of remuneration and similarly para 8.4/5 of Outsourcing guidelines dated 1-02-2011 states that a agent/corporate agent shall

not be contracted to perform any outsourced activity other than those permitted by the respective regulations governing their licensing and functioning. In spite of the specific instructions, the insurer has entered into agreements with licensed entities and continued the arrangements.

- 2) On examining the sample data, it is observed that the company has made payouts under section 194C, 194J & 194I of Income Tax Act to 16 corporate agents and 21 individual agents, over and above the insurance commission paid under section 194D during the FYs 2010-11 & 2011-12.

In spite of the guidelines from the Authority, insurer has entered and continued additional relationship with licensed entities. **In view of the violation of the guidelines, the Authority in exercise of the powers vested under Section 102 (b) of the Act imposes a penalty of Rs.5 lakhs.**

Further, insurer **shall discontinue** the practice of engaging a licensed entity as a service vendor. Insurer is advised to terminate all such agreements which doesn't comply with the Authority guidelines/circulars by 30-09-2017 and to give an update on a regular basis until compliance to the direction. Insurer is also advised to exercise due diligence while entering into agreements with vendors and is directed to scrupulously comply with all clauses of "Guidelines on Outsourcing of Activities by Insurance Companies Circular No. IRDA/LIFE/CIR /GLD/013/02/2011 dated 01/02/2011 in true spirit at all times.

#### 4. Charge No.4

- a) Insurer allotted 18551 online access codes (WebPos IDs) under the head 'Producer – Field User (FU)' to unlicensed entities. It was also observed that insurer allotted on-line access to its policy administration system to 186 motor dealers. It is pertinent to note that the vendor Code no. allotted as per motor dealer data and producer code allotted as per WebPos ID data are the one and same.
- b) Insurer solicited and procured insurance business from unlicensed entities and paid them by way of insurance commission and / or remuneration / reward and other accounting head. It was noted from the Form 26Q (TDS Data) that for solicitation and procurement of insurance business the insurer had paid commission to the motor dealers under Section 194 D of Income Tax Act i.e.



Insurance Commission. The copies of the payment vouchers and the supporting documents sought from insurer were not submitted during the inspection.

- c) It was observed that about 40% business of the company was sourced under direct channel during the financial years 2010-11 and 2011-12.
- d) The insurer had allotted Webpos IDs and sourced business from producer code 10289000. To accommodate the payments towards solicitation and procurement of insurance business, the insurer had entered into agreement for support services to facilitate the insurance business.
- e) It was observed that insurer had made payments to M/s Urja Communications Pvt Ltd under accounting head insurance commission. The insurer had entered into master service agreement with M/s. Urja, who was engaged in providing of interactive market services. The copies of payment vouchers for payment of insurance commission amounting to Rs.67.15 Lakhs, were sought from the insurer and the same was not submitted to the inspection team during the inspection.
- f) Insurer allotted 367 online access codes to the persons / entities engaged in tours and travels business & unlicensed entities. It was also observed that apart from other payments insurer had made payments to these tour / travel companies under the accounting head insurance commission.
- g) The base underwriting documents of top 20 policies for each of private car and two-wheeler were examined on sample basis. It was observed in 29 policies out of 40 that though the business was sourced through an intermediary / producer, the name of that intermediary / producer was not appearing on the policy documents and was shown as under 'direct' channel.

**Violation of Authority circular ref.no. IRDA /Cir/011/2003 dated 27.03.2003 on soliciting of business through other than licensed entities**

**Submission of Insurer:**

- a) The employees of the Company who in fact solicit the business had to use the infrastructure/system of the Motor Dealers for instant issuance of policies to the customers using the web pos system of the Company which had been integrated with the dealers & Company's IT system. This is the reason of providing Webpos IDs to the dealers. The payments have been made to dealers



in order to avail infrastructure services at dealers location and payments are in the nature of incentives, motivators and not in the nature of insurance commission and as advised by our consultant we have deducted TDS under section 194D. Codes are allotted to dealers for internal control and management tracking of premises utilized by the company and such codes should not be construed as producers' code.

- b) The Company has infrastructure sharing arrangements with many motor dealers. The Company offers incentives to dealers for allowing the Company to run contests from their premises. The payments are also towards retainership and/or campaign management and/or infrastructure support and TDS has been deducted for the same under the applicable heads.
- c) Payments have been made to Urja communications towards professional services and as contractors. However, by inadvertence the deduction had been made u/s 194D which co-incidentally has reference to insurance commission. It is abundantly clear that the Urga communications are in no way involved in solicitation of insurance business.
- d) The policies referred has been sourced direct and hence question of intermediary / producer details on the face of the policy does not arise.

**Decision:**

On examination of the available records and sample data, it is noted that

- a) Insurer allotted producer codes and named them as retainers, who are also the licensed agents of other general insurers.

Sl. no	Retainership code	Retainership fee paid by insurer during FY 2011-12 (in lacs)	License no of retainer tied with another general insurer
1	5421000	38.24	2785238
2	11344000	36.48	5137516
3	10958000	28.87	8378048
4	9916000/01	17.15	231053
5	9240000	16.73	8963863
6	12329000	14.25	856455
7	10556000	9.62	5857481
8	4705000	1.09	2035731
9	6879000	NA	730109
10	8837000	NA	3249320

11	9845000	0.26	5116885
12	648000	NA	441366
13	5100000	9.27	3307919
14	12052000	7.78	809160
15	4132000	5.64	678077
16	6808000	5.23	1808234

- b) Similarly few retainers of the general insurer to whom producer codes were allotted, subsequently got licensed and were tied with the general insurer.

Sl. no	Retainership code	Retainership fee paid by insurer during FY 2011-12 (in lacs) before being licensed	License no
1	6741000	47.44	9126324
2	14006000	36.31	8992919
3	10849000	20.83	8818777
4	6608000	8.58	9289874
5	101001000	8.63	8159235

- c) Retainership and support service charges were paid to 4618 individual/entities during FY 2011-12 amounting to Rs.51.08 crs. The list of retainers includes travel agents and motor dealers.
- d) In the Webpos receipt no.W002134419 issued on 22/02/2012, the producer code no.12338063 was shown in the receipt and as an agent in the deposit slip, whereas in the policy document the business was shown as solicited under 'direct channel'. In 29 out of 40 top premium policies examined by the team, it was observed that the vendor/retainer name was mentioned as producer in the receipts and was shown as sourced under 'direct channel' in the policy documents.
- e) Payouts have been made to motor dealers and vendors under various heads including section 194D 'Insurance Commission'.
- f) Insurer failed to provide the payment vouchers for payment of insurance commission amounting to Rs. 67.15 lakhs made to M/s Urga Communication, which were sought from the insurer and the same was neither submitted to the inspection team nor with any of their subsequent replies.

All the above clearly indicate that insurer used the services of licensed agents tied to other general insurers, of prospective agents and other than licensed



agents for solicitation and termed them as retainers/vendors by allotting producer codes. Thus producer/retainer codes were allotted to vendors, solicited business through these individuals/entities, booked such solicited business under direct channel and payment was made in the name of outsourced activities. It could not be understood, how a licensed tied agent soliciting general insurance business for another general insurer can act as retainer/vendor and offer services to the company for enhancing performance by motivation.

**In view of the violation, the Authority in exercise of the powers vested under Section 102 (b) of the Act imposes a penalty of Rs.5 lakhs.**

**Insurer is directed**

- To make a thorough examination of all existing producer codes and field user codes of retainers/vendors and to terminate the agreements with immediate effect entered with all those entities not in compliant with the Authority Regulations / guidelines. An action taken report in this regard is to be submitted to Authority within 6 months of issue of the order.
- The company is strictly directed to solicit business only from licensed entities and not to encourage or solicit business from unauthorized entities in the name of outsourcing agreements
- To exercise due diligence while entering into agreements and to re-examine all the existing agreements as per para 10 of Outsourcing guidelines dated 1<sup>st</sup> February, 2011 on the services outsourced, terms and payment, entities involved and to submit an action taken report by 30-09-2017. The outsourcing arrangements should be in line with insurer's Board approved comprehensive outsourcing policy, company to review vendor performance on an annual basis, to assess cost benefit analysis, avoid conflict of interest in any of the outsourcing agreements, to comply with all applicable Regulations prescribed by the Authority from time to time and to maintain all background papers, supporting documents and invoices/ bills relevant to the payments released to vendors.
- To ensure compliance to para 8.4/5 of outsourcing guidelines & clause 21 of corporate agents guidelines dated 14-07-2005 on engaging of licensed entities for outsourced activities.

**5. Charge No.5**

- a) On examining the data of the period FY 2010-11, 2011-12 and 2012-13, it was observed that **115 corporate agents out of 135** were without a qualified Chief Insurance Executive (CIE) / Specified Person (SP). The insurer had



solicited and procured insurance business from the 115 CAs inspite of not having a qualified CIE/SP.

- b) It was noted that except HSBC Bank all other bank CAs have only 1-2 SPs, who are authorized to solicit and procure insurance business. Contrary to the number of CIE/SP available for the above C.As, the insurer had allotted multiple online accesses to its policy administration system to these C.As. It is clear that the said online access were used by other than authorized persons (SPs) of the C.A.

#### **Violation of**

- a) Regulation 9(2)(ii)(a) of IRDA (Licensing of Corporate Agents) Regulations, 2002.
- b) Point 2, 8 & 17 of circular no. 017/IRDA/Circular/CA Guidelines/2005, dated 14-7-2005.
- c) Not complying with Point 2.2 & 3 of checklist Circular no. No. IRDA/CAGTS/CIR/LCE/ 093/06/2010, dated 7-6-2010 during annual on-site inspection of records of the corporate agents.
- d) Authority's circular IRDA/CIR/011/2003, dated 27-03-2003.

#### **Submission of Insurer:**

- a) We state that the submissions made by the Company to the Inspection team vide INT1 inadvertently showed no qualified CIE/SP. We sincerely regret the error. Upon revalidation of data of Corporate Agents, CIE's were in place for most Corporate Agents and SP's were in place for all Corporate Agents. In case of Corporate Agents where the CIE was not in place owing to absence of the requisite qualification, the Company has terminated these Corporate Agents over the last 3 years i.e. FY 2010-11,2011-12 and 2012-13. Due controls have been put in place to ensure that the licenses certification and training is monitored and records maintained at all points of time. As of 31<sup>st</sup> March, 2016 the company has 5 corporate agents and all of them have CIEs and collectively they have 5309 SPs.
- b) Giving online access should not be equated with the locations from which business is transacted by these corporate agents. The IDs from which the business is getting transacted could be completely different from the online ID (production OR field user ID) in the system that may have been created purely for operational purposes or for purposes of tracking business. Many of the IDs have nil transactions, clearly showing that the online policy issuance has no linkage with the business soliciting. Further- we would re-emphasize that there is



a very high focus of the Company to ensure that each of these Banks/Corporate Agents increase the number of Specified persons.

The Company therefore wishes to confirm that only authorized persons of the Corporate Agents are soliciting or procuring insurance business.

### **Decision**

The general insurer in its submission dated 22<sup>nd</sup> February, 2017 has informed the Authority that it has only 30 & 22 corporate agents as at 31<sup>st</sup> March, 2011 and 31<sup>st</sup> March, 2012 and has submitted a list of 22 corporate agents who were active as at 31/03/2012 along with the details of CIE & SP of each of the corporate agent.

However, the inspection observation was about top 22 top corporate agents who were active during FY 2010-11 & 2011-12 and solicited business inspite of not having a CIE & SP. In the reply provided by insurer with its reply has covered details of only 4 of the 22 corporate agents referred in the inspection observation. On seeking information of SP/CIE details, the company has only provided the date of termination of the corporate agency agreement with all the 22 agents which were falling during the period of April 2010 to December, 2012. **The reply is silent** with reference to the 18 other corporate agents referred in the inspection observation, who solicited business during 2010-11 and 2011-12 inspite of not having a CIE/SP.

Further, it was also noted that the corporate agent M/s Kotak Mahindra bank was allotted 454 Webpos Ids and it solicited 28813, 19137 & 7298 policies during 2010-11, 11-12 & 12-13 with a single specified person along with the CIE. Similarly for corporate agent M/s Janta Sahakari Bank, 92 WebPos Ids were allotted by the company and it also solicited 9132 & 6423 policies during 2011-12 & 2012-13 with a single specified person along with its CIE. The company by accepting the business and by allotting huge no of WebPos Ids has allowed the corporate agents to continue solicitation of the business with a single specified person on pan India basis.

Thus solicitation of huge no of policies with a single specified person from various locations and allotting multiple web ids by insurer, evidences the involvement of other than licensed persons by the CA in the solicitation process and this was made possible by insurer by allotment of Webpos Ids.

Authority has advised insurers to carry on regular, annual on-site Inspection of the tied Corporate Agents every year starting from September, 2010 vide circular no. IRDA/CAGTS/CIR/LCE/093/06/2010, dated 7-6-2010 to ensure that solicitation is done by specified persons of the CA. Further, at checklist point A1 of the referred

circular for on-site inspection of the corporate agent by insurer, insurers were also advised to examine whether the corporate agents are employing specified persons for solicitation. It is the responsibility of the insurer to ensure that corporate agent solicits business only through specified persons and there shall be no sub-agents.

**In view of the violation to the Corporate Agents Regulations & guidelines on solicitation of business by the CA without a CIE/SP and through sub-agents, the Authority in exercise of the powers vested under Section 102 (b) of the Act imposes a penalty of Rs.5 lakhs.**

Here after, the insurer is directed to mandate the corporate agent to provide details of the specified person involved in soliciting the business in the proposal form and also insurer to capture the details of the specified person involved in soliciting the business in its database, if it is through a corporate agent. Further, insurer to ensure that the corporate agent has adequate number of specified persons based on their geographical presence, business turnover etc., to ensure compliance of Regulation 14(v) and 14(vi) of IRDA (Corporate Agent) Regulation 2015. If the corporate agent is not compliant with the Regulations, insurer to re-examine its tie up with corporate agent.

**6. Charge No. 6**

- a) It was observed from the sample check that though insurer was being aware of few corporate agents not being compliant with the guidelines issued by Authority on the qualification of CIE, insurer continued to source insurance business from such corporate agents during the years 2010-11, 2011-12 and 2012-13
- b) The insurer confirmed the status of 15 C.As as 'Cancelled / License Expired'. The dates of terminations of such C.As are in the financial year 2010-11 and 2011-12 and still the business was procured and solicited through these C.As in the financial year 2012-13.
- c) The insurer had not submitted required licensing documents of M/s. Liqui Finance Solutions Pvt. Ltd. (IRDA License No. 1772676), in the absence of which licensing documents could not be examined.
- d) The insurer without obtaining proof of passing the pre-recruitment examination by CIE/SP of the CA had processed and issued the C.A. license to 11 CAs.

**Violation of**

- a) Regulation 2(g), 3, 4(2), 5 & 6 of IRDA (Licensing of Corporate Agents) Regulations, 2002.



- b) IRDA circular ref. IRDA/Cir/011/2003, dated 27.03.2003.
- c) Clause 7 of Authority circular no.017/IRDA/Circular/CA Guidelines/2005 dated 14-07-2005 read with Authority circular no. 70/IRDA/AGENCY/March-2008, dated 31-3-2008 wherein Authority has relaxed the qualification for CIE/SP upto 01-04-2009 only, by which insurer should have not renewed the licenses coming up for renewal not fulfilling the criteria after 1-4-2009.

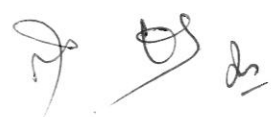
**Submission of Insurer:**

- a) Upon enhancement of qualification requirement by the Authority, some CAs of the 29 CAs referred in the inspection observation could not comply with the qualification requirement and the company terminated such CAs during the FY 2010-11, 11-12 and 12-13 including the CAs All Risk Insurance Services and Anirudh Insurance who got terminated in December, 2012 and no further business was transacted. It is to further inform that due caution was taken in licensing of CAS, ensuring compliance to Regulations, lapses found have been corrected and strong controls are built.
- b) The company conducted inspection of CAs on 30-09-2011 & 30-09-2012 and informed to the Authority clearly highlighting the shortfall in the qualification of CIEs.
- c) The company has not solicited any business after license expiry/cancellation of CA and business booked in the subsequent year was on account of renewals/endorsement done in the best interest of the policyholder. Though the renewals have been accepted by the company, no active solicitation has been carried out by the Corporate Agents and no commission was paid after expiry of agency license. Further, system checks are in place while accepting risks to cross check whether the license of agent was in force.
- d) Insurer also provided the license document of M/s Liqui finance Solutions and stated that in case of any lapse found, it was duly corrected by the company and controls built for stronger execution and enforcement in future and should not be construed as standalone actions based on inspection report.
- e) The company would like to state that in **most of the cases** the CIE/SP had completed the mandatory training & examination at the time of issuance/renewal of license.

**Decision:**

The Authority observes serious lapses and lack of proper internal control mechanism at insurers office with regard to

- Renewing the corporate agency license inspite of the CIE of the corporate agent not having prescribed qualification.
- Termination of licenses of such CAs was done during FY 2010-11, 11-12 & 12-13 inspite of the circular on CIE qualification *being* effective from 01-04-



2009 onwards. Further of the CAs licenses terminated, of 2 CAs the license termination was done only after inspection observation.

- Booking renewal insurance business in the corporate agents account even after cancellation/termination of agency license
- Not acting on the lapses noticed during the on-site inspection of the CAs records and
- Documents of license termination/renewal/qualification/training and other licensing documents of CAS not being properly preserved to enable examination during inspection nor provided subsequently with the reply.

However, taking note of the submissions of insurer on cancelling the licenses of all such CAs not in compliant with the Regulations, putting effective system controls and submitting that no commission was paid to the CAs after termination/cancellation, no charge is pressed. Henceforth, the general insurer is advised to strictly comply with all applicable Regulations and Guidelines relating to corporate agency matters.

7. **Charge no. 7**

Insurer had given forty eight (48) online access codes to M/s. Pune District Central Co Op. Bank Ltd (PDCC). Further, it was noted that the insurer had paid an amount of Rs. 30.82 Lakhs & Rs. 3.16 lakhs during the financial years 2010-11 and 2011-12 respectively under Section 194D of Income Tax Act, i.e. payment towards Insurance Commission.

**Violation of Regulation 2(I) & 11 of IRDA (Sharing of Database for distribution of insurance products) Regulations, 2010.**

**Submission of Insurer:**

The company had entered into a referral agreement with PDCC for which the approval was granted by the Authority on 4<sup>th</sup> January, 2011. The referral data was received from PDCC which in fact pertain to rural area & the company out of good prudence tried to educate the rural customer by also conducting education campaign. In the absence of any other charging provision, TDS has to be applied under section 194D on these payments which are in no way connected with soliciting or procuring insurance business. It is also confirmed that an amount of Rs.25.37 lacs was only paid during 2010-11 and not Rs.30.82 lacs, which includes Rs.22.90 lacs towards referral fees and an amount of Rs.2.46 lacs towards campaign conducted by the company.

Insurer also confirmed that the referral fee paid was for the database converted into sale in compliance with IRDA (Sharing of Database) Regulations, 2010 read with circular no. *IRDA/Life/Cir/Misc/126/08/2010 dated 9<sup>th</sup> Aug 2010*.

**Decision:**

The company has allotted 48 online webpos Ids to referral partner who has nothing to do with solicitation of insurance business.

However, taking note of the insurer submission that the referral fee paid was only for sales converted as prescribed in the Regulation and the Web Ids created are being operated by the employees of the company, no charge is pressed and insurer is advised to ensure strict compliance with the provisions of IRDA (Sharing of Database) Regulations, 2010.

**8. Charge No. 8**

It was noted that the individual holding agency license no. 1181145 tied to another general insurer was allotted WebPos ID and producer code no.10166000 by the insurer.

**Violation of Regulation 3 (2) of IRDA (Licensing of Insurance Agents) Regulation, 2000** that requires an individual agent to be associated with one Life and one Non-life insurance company only.

**Submission of Insurer:**

We would like to state that the Company appointed the individual as a retainer and the access was provided to facilitate the role by the retainer. The company on subsequently becoming aware that he was the licensed agent of another GI company immediately terminated the retainerhip.

**Decision:**

On the issue of insurer using the services of tied individual agents of other general insurers in the name of retainerhip by allotting producer codes, a direction with penalty already being given at charge 4 of the order, no further action is suggested.

**9. Charge No.9**

a)The insurer had modified the exclusion no. 7 of the Standard Fire and Special Perils policy no. 2630000209 by attaching Lightening Extension which amounts to alteration of the Terms and Conditions of the filed product.



- b) The policy was extended by way of Endorsement no. 2 dated 23-04-2012 to cover Machinery Break Down risk retrospectively from 14-01-2012 without charging any additional premium.
- c) From the sample policies examined, it was also noted that the insurer has allowed discounts up to 60% under Engineering and up to 92% under Fire segments on the base rates filed.

**Violation of**

- a) Para 2, 3(ix), 11, 17.1 & 26 of File and Use guidelines ref. 021/IRDA/F&U/SEP-06, dt.28.6.2006.
- b) Circular no. IRDA/NL/Cir/F&U/003/01/2011 dated 6<sup>th</sup> Jan, 2011.

**Submission of Insurer:**

We immediately rectified the error by cancelling the coverage offered for lightning cover through an endorsement with effective date from 14-01-2012 (Inception date of the policy). In lieu of the same and to protect the policyholder interest we had offered the Machinery breakdown cover (MBD). The additional premium paid under the policy for lightning extension was adequate to provide for the MBD cover.

The profitability of our Fire and Engineering portfolio is amongst the best in the industry during the last 15 years. The discounts allowed for select renewals was commensurate with the quality of the risk written and in compliance to the F&U guidelines in allowing discounts based on risk factors.

**Decision :**

- a) Authority notes from the insurer submission that the company has identified and taken corrective action on the error of allowing modification to erstwhile tariff wordings, hence no charge is pressed.
- b) The Board approved internal rate guide of SFSP policy submitted by insurer to Authority states that the discounts offered by insurer in respect of Non CAT peril rating should not exceed 50% in case of having an incurred claim ratio of more than 30% during last 36 months. The sample data examined by the inspection team noted that the discounts allowed on renewals was more than the discount prescribed in the internal rate guide and thereby deviating from Board approved underwriting policy.

Insurer is advised to ensure full compliance to guidelines on product filing procedures for general insurance products and health insurance products issued vide circulars dated 18/02/2016 & 29/07/2016 and also to Board approved



underwriting policy. Any deviation noticed hereinafter would be viewed strictly. Insurer is also advised to have system checks on the rating methodology.

**10. Charge No.10**

On examining the statement of claims repudiated during 2011-12, it was noted that 301 claims were closed by insurer for delay in intimation.

**Violation of** circular no.IRDA/Hlth/misc/cir/216/09/2011 dated 20<sup>th</sup> Sep, 2011 wherein insurers were advised not to reject claims purely on delayed intimation and to reject only those claims which would have been rejected even if reported in time.

**Submission of Insurer:**

It is submitted that no claim is repudiated for the sole reason of delay and the company examines the claim on merits before closing / repudiating the claim. We have a well-defined process for consideration and repudiations. Further, in all claims repudiated, appropriate communication is sent to the Insured, giving them an opportunity to revert, if the Insured believe that we have overlooked any material fact or circumstance, or if they wish to present an alternative interpretation of any relevant policy provision.

Out of the 301 claims repudiated, 276 claims pertain to policies issued to Tata Motors covering inland transit of spare parts and were repudiated for the breach of a specific policy condition on loss notification which was incorporated after insured consent to minimize fraudulent / exaggerated claims and of the rest 25 claims only 5 claims pertain to retail/individual customers where there is delay of 8-11 months in reporting.

**Decision**

The submission of insurer is noted and no charge is pressed.

**11. Charge No.11**

The tripartite agreement between the insurer, Tata Motors Ltd. (TML) and M/s. Tata Motors Business Support Services Ltd. (TBSS) has been examined. Upon examination of the agreement the following issues were observed;

- a) As per para 5a of the tripartite agreement, insurer is supposed to pay consideration (service charges) to TBSS on the basis of policy issued through dealerships, whereas payments were made as a percentage to premium.



- b) As per para II (1) of Annexure-A, the insurer should fix premium rate in mutual consultation with TML.
- c) As per para 1 of Annexure-B, All claims shall be registered at dealership in the system.
- d) As per para 7 of Annexure-B, TBSS shall appoint eligible surveyor.
- e) As per para 7 (c) of Annexure-A, the refund of premium will go into account of motor dealer.
- f) As per para 12 (h) of Annexure-B, All electric parts like ECM, various sensors, motors, actuators, wiring harness, *headlight assembly* etc. are to be treated as "other parts", where the depreciation depends upon the age of the vehicle instead as . In this regard, it is to note that in major vehicles the 'headlight assembly' is manufactured by using of plastic material and in case of partial loss claims it will attract 50% depreciation. The insurer based on the above mentioned agreement settled 85 and 4413 claims during the financial year 2010-11 and 2011-12 respectively.
- g) As per para 12 (g) of annexure B, no salvage value is to be deducted from the claim amount by insurer.
- h) As per para 7© of annexure –A, insurer cannot deny acceptance of risks.
- i) As per 9(f) of annexure – B, insurer is bound by the settlement agreed by the surveyor.

#### **Violation of**

- i) General Regulation 9 on 'depreciation' of Indian Motor Tariff wordings, Point 1, 2 & 28 of F&U guidelines dated 28/09/2006, Authority Circular ref. No. IRDA/NL/CIR/F&U/073/11/200 dated 16-11-2009, Authority circular 066/IRDA/F&U/Mar-08 dated 26<sup>th</sup> March, 2008, and Authority cir.no.19/IRDA/NL/F&U/Oct-08 dated 6<sup>th</sup> Nov, 2008 for changing the erstwhile tariff wordings on plastic parts.
- ii) Violation of Clause 6 of corporate governance guidelines of Annexure II of circular no.IRDA/F&A/Cir/0205/2009-10 dated 5<sup>th</sup> Aug, 2009 for lack of internal control mechanism by having agreement terms detrimental to the interests of the company/insured.
- iii) Section 64VB (3) of Insurance Act, 1938.
- iv) Section 64UM of Insurance Act, 1938 by agreeing to bound to the loss estimation of surveyor.

#### **Submission of Insurer:**

- a) It is to state that payments to TBSS were paid strictly as per tripartite agreement and the consideration was not paid as a percentage to premium. Further, TBSS does not have any role, whatsoever, in premium rates which are done exclusively by our actuarial team and uploaded in the system.

- b) In respect of claims, the company has panel of surveyors for the loss assessment and uploaded in the TBSS system which only facilitate seamless flow of data into our system. Logistics related to the claim are routed through the TBSS system as per instructions. No core activity was outsourced to dealers, though a reference might have been made in the agreement, these activities were never outsourced.
- c) The refund to dealer is allowed only in case of cancellation of the policy abinitio due to non delivery of vehicles to the potential customer. The cancellation is done before the policy becomes effective and before the customer becomes an insured.
- d) The surveyors' appointment and the quality of assessment are closely monitored and the objective is to provide prompt and fair settlement of claims to our policy holders without diluting any provision of the Act or regulatory norms. The clause in the agreement to go by surveyor assessment, in our opinion, does not volate this provision.
- e) We would like to state that head Lights of vehicles, for which we have entered into agreement are motorized composite items with an inbuilt motor and hence cannot be broken into components like rubber, plastic, metallic or fibre items. If the headlight of Tata Motor is damaged the entire assembly, including the motor, has to be replaced. Since the motor of the headlight is integral & inseparable component of the entire assembly, in our opinion we classified as 'other part' which attracts same depreciation as metal parts do. Thus this has been classified as "all other parts" mentioned under item no. 4 of GR 9 of tariff.
- f) Salvage was never recovered from motor claims and the reference to this point in the agreement was only reiterating the company principle.

**Decision:**

On examining the submissions, it is noted that

- a) Clause 12 (h) of annexure B read with clause 4(e) of the tripartite agreement entered by insurer with M/s TML & M/s TBSS, states that 'headlight assembly' will be treated as 'other parts' where depreciation depends upon the age of the vehicle. General Regulation 9 of India Motor Tariff, 2002 clearly states how depreciation is to be arrived in case of partial loss claims on various parts. Insurer allowed depreciation percentage applicable for 'other parts' on 'head light assembly' instead of 'plastic parts', for the business sourced under the agreement. In this regard, insurer stated that head lights of Tata Vehicles were assembly of multiple components having motorized head lights are integral and inseparable component of the entire assembly, as such being classified as 'other parts'. If such is the case, insurer should have allowed similar treatment



for all the claims of the same manufacturer sourced through various channels. The inspection observation provided a sample of claims where a differential practice was adopted in the application of depreciation on the head light assembly and to which insurer has not responded with claim wise details. The insurer has given differential treatment for the same class of risk sourced through different channels. Thus insurer has violated GR 9 of erstwhile tariff wordings and other circulars including the 16<sup>th</sup> November, 2009 circular referred in the charge which provides that terms and conditions of erstwhile motor tariff should not be varied without the Authority's express approval.

**In view of the violation of the F&U guidelines, the Authority in exercise of the powers vested under Section 102 (b) of the Act imposes a penalty of Rs.5 lakhs.**

- b) Clause 9f of annexure B to the tripartite agreement states that 'insurer is bound by the settlement agreed upon by the surveyor'. This clause takes away the insurers right to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor. Insurer is advised to get the clause revised to ensure compliance to Section 64UM of Insurance Act, 1938.

**12. Charge No.12**

Group Accident and Hospital Sickness Cash Policy F&U documents have been examined.

- a. On examining 5 sample copies of certificate of insurance of the group policy, it was noted that all the samples examined does not contain name of the policy on the face of certificate.
- b. Most of the policies under the group policy are solicited and procured by the insurer through the tele-calling / call centers. The summary of policies / premium sourced through call centers for the financial year 2010-11 and 2011-12 is as under;

Financial Year	No. Policy Sourced	Amt of Premium procured (Rs. In Lakhs)
2010-11	97312	4329.91
2011-12	135809	4790.94

- c. All the certificates of insurance were issued under Master Policy No. 0200012309. When copy of master policy was sought from the insurer, it was informed by the insurer that this master policy number under which all the certificate of insurances were issued, was for reference and tracking purpose only. Hence, the copy of Master Policy no. 0200012309 was not submitted by the insurer.

**Violation of**

- a) Para A (1&2) of Authority circular No. 015/IRDA/Life/Circular/GI Guidelines/2005, dated 14-7-2005 on group insurance guidelines by forming a group for the purpose of offering insurance only, without any group organizer.
- b) Para 2,8,11 & 28 of F&U guidelines dated 28-09-2006.

**Submission of Insurer:**

- a) We would like to state that the policy wordings as shared with each certificate holder have the product name on the header of the document. The said wording along with the policy kit has been sent to the individual customers.
- b) We would like to state that as explained at the time of Inspection we re-iterate that the policy issued with reference to Master policy no 0200012309 are in fact individual policies issued in a policy admin system called EMMA. EMMA is a standalone system and policies are migrated to the front end system on summary level using the above master policy number. Emma operates at a campaign level hence a single policy number is created for each campaign only for tracking purpose. We reiterate that the products offered were retail products only and each insured were provided with policy wordings and policy kit.

**Decision:**

On examining the sample policy documents, it is noted that the policy schedule was referring to a master policy no and the policy schedule / policy document was not having any product name.

As noted from the submission, the insurer might have solicited individual policies and for tracking purpose would have included all such policies under one master policy for tracking purpose. However, the practice adopted by insurer is not correct, as this practice of insurer referring to a master policy and not giving information on the product name in the policy schedule would confuse the



insured. Insurer is warned for such wrong practice followed in the issue of policy document to insured.

Insurer is also directed to stop the practice of allotting master policy no to policies solicited under a campaign for tracking purpose and also to give clear and full information of the product in the policy schedule.

**13. Summary of Decisions:**

The following is the summary of decisions in this order:

<b>Charge No.</b>	<b>Brief Title of charge and the provisions violated</b>	<b>Decision</b>
1	<b>Charge:</b> Insurer failed to receive premium on policies issued against bank guarantee, within the stipulated period. <b>Provision:</b> Section 64 VB of Insurance Act 1938 read with Rule 58(i) of Insurance Rules, 1939	Direction to follow Act/Rules
2	<b>Charge:</b> Improvement to leasehold property considered as asset for solvency calculation. <b>Provision:</b> Point I (i) under Schedule I of IRDA (ASLM) Regulations, 2000.	Advisory to follow the contents of the Regulation.
3	<b>Charge:</b> Entering into additional relationships with corporate agents and individual agents and making additional payouts. <b>Provision:</b> a) Para 8.4/5 of outsourcing guidelines dated 1/2/2011 b) Circular no.011/IRDA/Brok-comm/Aug-08 dated 25-08-2008 c) Clause 21 of circular no.015/IRDA/Life/circular/GI guidelines/2005 dated 14-07-2005.	Penalty of Rs.5,00,000 under Section 102(b)
4	<b>Charge:</b> Soliciting business through other than licensed entities in the name of retainers / field users etc., <b>Provision:</b> Authority circular ref.no. IRDA /Cir/011/2003 dated 27.03.2003	Penalty of Rs.5,00,000 under Section 102(b) and direction to abide by the Circular and regulation.
5	<b>Charge:</b> Allowing the corporate agent to solicit business even without a CIE/SP with the corporate agent and also allowing to	Penalty of Rs.5,00,000 under Section 102(b) and

	solicit business on pan India basis with a single SP only. <b>Provision:</b> Corporate Agents Regulation and guidelines.	direction to abide by the Circular and regulation.
6	<b>Charge:</b> CIE of the corporate agent not having prescribed qualification. <b>Provision:</b> Corporate Agents Regulation and guidelines	Advisory to follow the contents of the Regulation.
7	<b>Charge:</b> Payouts to referral partner <b>Provision:</b> Regulation 2(l) & 11 of IRDA (Sharing of Database for distribution of insurance products) Regulations, 2010.	Submission noted
8.	<b>Charge:</b> Soliciting business through tied agent of another general insurer. <b>Provision:</b> Regulation 3 (2) of IRDA (Licensing of Insurance Agents) Regulation, 2000	No further charge, penalty imposed at charge.4
9	<b>Charge:</b> Modifying erstwhile policy wordings and allowing discounts not in line with F&U. <b>Provision:</b> F&U guidelines	Advisory
10	<b>Charge:</b> Claims closed for delay in intimation. <b>Provision:</b> Circular IRDA/Hlth/misc/cir/216 /09 /2011 dated 20 <sup>th</sup> Sep, 2011	Submission noted.
11	<b>Charge:</b> Terms of the Tripartite agreement entered by insurer is against various guidelines & Act provisions. <b>Provision:</b> GR-8 of Indian Motor Tariff 2002, F&U guidelines and 64 UM &64VB(3) of IA	Penalty of Rs.5,00,000 under Section 102(b) and direction to abide by the Circular and regulation
12	<b>Charge:</b> Group policy was issued to individual policyholders and the policy schedule was not having information of the product name. <b>Provision:</b> Group guidelines	Advisory

In the light of the above observations, it is made clear to the general insurer that the decisions and directions contained in this order relate and are confined to the observations and issues that sprang up out of the inspection carried out during 10<sup>th</sup> to 19<sup>th</sup> December,2012, and hence are without prejudice to the powers available to the Authority under the Act and Regulations to take action



including penal action against the general insurer for any violations, which are connected or unconnected with the violations in the SCN dated 8-12-16, that may be noticed subsequent to the issue of this order.

**14. Conclusion:**

(i) **As directed under the respective charges, the penalty of Rs.20,00,000 (Rupees twenty lakh only) shall be remitted by the General Insurer by debiting shareholders' account within a period of 15 days from the date of receipt of this Order through NEFT/ RTGS (details for which will be communicated separately). An intimation of remittance may be sent to Mr. P.K.Maiti, General Manager (Enforcement) at the Insurance Regulatory and Development Authority of India, 3rd Floor, Parishrama Bhavanam, Basheerbagh, Hyderabad -500 004.**

**(ii) Further,**

- (a) The General Insurer shall confirm compliance in respect of all the directions referred to in this Order, within 21 days from the date of receipt of this order.
- (b) The Order shall be placed before the Audit committee of the General Insurer and also in the next immediate Board meeting and the General Insurer shall provide a copy of the minutes of the discussion.

15. If the General Insurer feels aggrieved by any of the decisions in this order, an appeal may be preferred to the Securities Appellate Tribunal as per Section 110 of the Insurance Act, 1938.



(V.R. Iyer)

Member (F&I)



Place: Hyderabad

Date: 17<sup>th</sup> April, 2017