



Ref: IRDA/Enf/Ord/Ons/79/04/2021

Final order in the matter of

M/s Muthoot Risk Insurance and Broking Services Pvt. Ltd.

[Based on the reply of M/s Muthoot Risk Insurance and Broking Services Pvt. Ltd. (the broker) dated 03/06/2020, to the Show-Cause Notice dated 15/05/2020 and submissions made during Personal Hearing on 30th July 2020 at 3:30 PM (through VC), taken by Member (Non-life) from the IRDAI office at 5th Floor, IRDAI office, Financial District, Nanakram Guda, Hyderabad].

Background:

1. An on-site inspection of the broker was conducted by the Authority during the period from 18th to 22nd November, 2019. The Inspection findings were communicated to the broker for their comments on 28/02/2020 and the reply of the broker was received by its letter dated 16/03/2020. A show-cause notice was issued to the broker on 15/05/2020, to which the broker submitted its reply by letter dated 03/06/2020. In the reply, the broker had requested for the personal hearing. The personal hearing of the broker was conducted on 30/07/2020 through video conferencing.
2. On behalf of the broker, the personal hearing was attended by Sriram Kumar, Principal Officer & COO and Ravi Oruganti, Group Head- Legal & Compliance. From the Authority, Mr Randip Singh Jagpal, CGM (intermediary); P.K. Maiti, GM (Enforcement) and Mr. Vikas Jain, AGM (Enforcement) attended the meeting.

Charges, Submissions in reply thereof and Decisions:

3. Charge 1:

The broker is procuring business from the branch network of Muthoot Fin Corp Ltd (MFL) from states like Andhra Pradesh, Telangana, Maharashtra, West Bengal and Odisha even though, the broker does not have any branches in any of those States. The MFL branches are acting as canvassers for insurance business. The broker gets leads from all these States and the same is mapped to its Business Development Managers (BDMs) who are posted at their branch offices at Bangalore, Chennai and Kerala.

It was also observed that the broker was paying incentives to the employees of MFL for procuring insurance business which ranges from 4% to 7% of the collected premium for the year 2016-17 which was subsequently stopped. An amount of Rs. 33.34 lakhs were paid to the employees of MFL. MFL is not licensed to solicit insurance business.

Further from the data collected during the inspection it is evident that more than 90% of the individuals marked as BDMs are neither Broker Qualified Persons (BQP) nor are they having license to solicit Insurance Business.

From the submission of the broker it is clear that they had engaged 52, 53 and 44 BDMs respectively during years 2016-17, 2017-18 & 2018-19 for solicitation of insurance business while they were having 9, 13 and 19 Brokers Qualified Persons, respectively during same years. Hence, the broker has violated the provisions of Regulation 8(2) and Clause 3(b) of Schedule VIA (Code of conduct) read with regulation 28 of IRDA (Insurance Brokers) Regulations, 2013 (year 2016-17 & 2017-18) and clause 3(b) of Schedule I – Form H (Code of conduct) read with regulation 30 & Regulation 8(2) of IRDAI (Insurance Brokers) Regulations, 2018 read with Regulation 2(1)(d) of IRDAI (Insurance Brokers) Regulations, 2018 (year 2018-19); by engaging BDMs as canvassers to solicit Insurance business.

4. Submission of the broker:

The broker submitted that they had done 3 product lines, viz. Group Health Insurance, motor insurance and life insurance. They submitted that:

(i) Group health insurance is a pre underwritten group product with all terms and conditions and rates being fixed in advance under a master policy construct.

(ii) Motor insurance products are not meant for Muthoot customer but open to any person who wishes to renew their motor policy. MFL branch is a place where these renewals are done. All quotes & policy issuance happens from their back office operations hub in Trivandrum & Kochi. MFL branch does nothing except forwarding the RC & insurance policy copy of the Insured to their hub office & thereafter their back office hub takes over and talks to the customer and no sale happens at an MFL branch.

(iii) Life insurance policies are retail policy and is the only lead driven program. They do not sell life Insurance in Maharashtra & Odisha but only in AP/Telangana & West Bengal. Their solicitation policy provides for MFL to provide leads to their BDMs (without any consideration). Every lead is met by their BDM personally and attempts are made to sell the life Insurance policy. In all the locations mentioned, they have a total of 10 BDMs who personally interact with customers. The broker also submitted that they have sold all life policies through their BDMs who are broker trained and qualified persons.

The broker submitted that the incentive payment to MFL employees had been stopped since October, 2016 on realizing the mistake. However, MFL continues to provide leads for life with NIL consideration.

In the personal hearing in the matter of group health insurance policy, the broker explained that they have been selling group health policies of TATA AIG which is pre underwritten product through MFL branches, which are in rural/ very rural areas where customers enter the branch and the details of the policies are provided to them and the premium is paid by the customer and certificate of insurance is issued to them instantly. In this regard the broker submitted that there is no solicitation as it is a pre underwritten product.

The broker submitted that the certificate of insurance issued to these rural customers is in English language. The broker also submitted that their qualified BDMs are not posted in the branches; they are posted in the cluster offices and these rural customers are referred to their BDMs posted in clusters.

In terms of life insurance policy, the broker submitted that they solicit life insurance policy in four southern states and West Bengal and the choice of insurer is made on the ground support of the insurers for various regions. They also submitted that in AP and Telangana, they are tied up with Exide Life and Sriram Life and in Kerala and Karnataka they have tie-up with Kotak and Reliance Life Insurance Company respectively. Further they also submitted that they have sold all life policies through their BDMs, who are the broker trained and qualified persons.

Later, the broker also submitted the current status of all BDMs who had sold the life insurance policies as mentioned in the annexure (Annexure A3 IRDA_POLICY_MAPPING) to the inspection report.

5. Decision:

IRDAI has specified the norms of eligibility, training and examination for all entities/persons engaged in solicitation and procurement of insurance business. The criteria specified in the regulations issued by the Authority hold valid for persons soliciting pre under written products also. Clause 3(b) of Schedule I – From H read with regulation 30 of IRDAI (Insurance Brokers) Regulations, 2018 which corresponds to clause 3(b) of Schedule VI A read with Regulation 28 of the erstwhile IRDA (Insurance Brokers) Regulations, 2013 (which was in force during the years 2016-17, 2017-18) prohibits insurance broker from employing agents or canvassers to bring business.

Based on the documents on record, the broker has been engaging BDMs as canvassers to solicit insurance business. The broker has failed to justify its contention that they were complying with the provisions of the regulations. On the contrary, as can be seen from the

table below that the majority of BDMs were not qualified as the time of solicitation of business.

In case of Motor, the broker has accepted that the renewal is done at the MFL office, who are not registered to solicit insurance Policy. However, submission of the broker that they have stopped payment to the MFL since 2016-17; is taken note of.

On the matter of solicitation of life insurance policies, the broker submitted that they have sold all life policies through their BDMs who are the broker trained and qualified persons. However, on perusal of the document submitted by the broker on policy mapping, it is evident that a number of BDMs as mentioned in the table below are not having license as on the date of solicitation. Analyzing the submission post hearing, status of the BDMs who solicited life insurance business during 2016-17 to 2018-19; is summarized in the following table:

Year 2016-17:

Status of BDMs	No. of BDMs	Number of Policies solicited
Resigned, not qualified	25	1249
IRDAI broker exams passed on 20/08/2020, waiting for certificate	4	241
Training completed (during 2019-20) certificate received (date of passing IRDAI exams not given)	9	1207
Certificate No. given (IRDAI exams passed before 2016-17)	1	62
Certificate No. given (IRDAI exams passed after 2016-17)	12	1449

Year 2017-18:

Status of BDMs	No. of BDMs	Number of Policies solicited
Resigned, not qualified	19	1084
IRDAI broker exams passed on 20/08/2020, waiting for certificate	4	470
Training completed (during 2019-20) Certificate Received (date of Passing IRDAI Exams not given)	10	1996
Certificate No. given (IRDAI exams passed before 2017-18)	4	287
Certificate no. given (IRDAI exams passed after 2017-18)	13	1410

Year 2018-19:

Status of BDMs	No. of BDMs	Number of Policies solicited
Resigned, not qualified	10	710
IRDA broker exams passed on 20/08/2020, waiting for certificate	4	612
Training completed (during 2019-20) certificate received (date of passing IRDAI exams not given)	11	2436
Certificate No. given (IRDAI exams passed before 2018-19)	10	1174
Certificate no. given (IRDAI exams passed after 2018-19)	6	1089

From the above table, it is clear that majority of the individuals functioned as BDMs were not qualified for solicitation of Insurance business as on the date of solicitation and some of them have obtained qualification only after the relevant period of solicitation. Hence the broker has employed persons who are not authorized to solicit Insurance business and hence violated the provisions of clause 3(b) of Schedule VIA (Code of conduct) read with regulation 28 of IRDA (Insurance Brokers) Regulations, 2013 and clause 3(b) of Schedule I – Form H (Code of conduct) read with Regulation 30 & Regulation 8(2) of IRDAI (Insurance Brokers) Regulations, 2018; to be read with Regulation 2(1)(d) of IRDAI (Insurance Brokers) Regulations, 2018.

As per the records available and further submission made by the broker post personal hearing; it is observed that the broker has been engaging unlicensed individuals in the name of Business Development Managers (BDMs) since the year 2016-17 for solicitation of life insurance business. Hence, considering that the violation continued for more than one hundred days, by virtue of powers vested under Section 102 (b) of the Insurance Act, 1938, the Authority levies a penalty of Rs. 100,00,000/-(Rupees one crore only); which is calculated by applying the prescription “one lakh rupee for each day during which such failure continues or one crore rupees, whichever is less”.

Further, the broker is directed to give confirmation within 21 days of receipt of this order that they are now fully compliant with the extant Regulations pertaining to engagement of licensed personal for solicitation and distribution of insurance business.

Summary of Decisions:

6. The following is the summary of decisions in this order:

Charge No.	Brief Title of charge and the provisions violated	Decision
1	Charge 1: Engaging unlicensed entities to canvass insurance business. Provision: Para 3(b) of Schedule VIA (Code of conduct) under regulation 28 of IRDAI (Insurance Brokers) Regulations, 2013 & clause 3(b) of Schedule I – Form H (Code of conduct) under regulation 30 & 8(2) of IRDAI (Insurance Brokers) Regulations, 2018 to be read with Regulation 2(1)(d) of IRDAI (Insurance Brokers) Regulations, 2018.	Penalty of One crore

Conclusion:

7. As directed under the respective charges, the penalty of Rs. one crore shall be remitted by the Insurance broker within a period of 45 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. Prabhat Kumar Maiti, General Manager (Enforcement) at the Insurance Regulatory and Development Authority of India, Sy. No. 115/1; Financial District; Nanakramguda; Gachibowli; Hyderabad – 500032.

8. The broker shall confirm compliance in respect of the above decisions, within 21 days from the date of receipt of this order. The order shall be placed in the upcoming Board meeting and the broker shall submit a copy of the minutes of the discussion.

9. If the broker 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.

Date: 7th April, 2021
Place: Hyderabad.

Sd/-
(T. L. Alamelu)
Member (Non-Life)