



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

No. IRDA/ENF/ORD/ONS/ 238 /08 /2021

**Final order in the matter of
M/s. Saferisk Insurance Brokers Pvt. Ltd**

[Based on reply to the Show Cause Notice dated 10th May 2021 and submissions made during Hearing held via Video Conferencing on 14th July 2021 at 2:30 p.m., chaired by Member (Distribution)]

Background: -

1. The Insurance Regulatory and Development Authority of India (Authority) had conducted an onsite inspection of M/s Saferisk Insurance Brokers Pvt Ltd ("Broker" or "Company") during 10th to 14th August 2020, in order to examine overall regulatory compliance by the Broker. The Authority forwarded a copy of the Inspection Report to the Broker on 15th October 2020 seeking comments and the Broker's response was received vide their letter dated 2nd November 2020. Upon examining the documents on hand and submissions made by the Broker, the Authority issued Show Cause Notice (hereinafter referred to as "SCN") on 10th May 2021.

Show-Cause Notice, Reply and Personal Hearing:

2. The Broker submitted its reply to the SCN by its letter dated 28th May 2021. As requested therein, hearing via Video Conferencing was given to the Broker on 14th July 2021. Mr. Sandip Kumar Ghatak, Principal Officer & Managing Director, Mr Ashok Kumar Mishra, Chairman, Mr Soumya Ranjan Biswal, Vice President & Compliance Officer & Mr Biswajeet Mishra, Executive Vice President, attended the Hearing, on behalf of the Broker. On behalf of the Authority Mr Randip Singh Jagpal, CGM (Intermediaries), Mr. P.K. Maiti, GM (Enforcement) & Mr Udit Malhotra, AM (Enforcement) attended the hearing.

3. The submissions made by the Broker in their written reply to the Show Cause Notice, those made during the course of the Personal hearing and the documents submitted by the Broker in evidence of their submissions have been considered by the Authority and accordingly the decisions on the charges are detailed below.

Charges, Submissions in reply thereof and Decisions:

4. Charge No. 1:

Violation of Clause 3 of Regulation 31 of IRDA (Insurance Brokers) Regulations, 2013 (for the period before 12th January 2018) and Clause 3 of Regulation 31 of IRDAI (Insurance Brokers) Regulations, 2018 (for the period after 12th January 2018)

The Broker started his business during FY 2015-16 and the premium business is more than 10 crores during the FYs 2015-16, 2016-17 and 2018-19 and as per IRDAI (Insurance Brokers) Regulations, 2013 it is mandatory for an insurance broker to have a designated compliance officer if their business in a financial year is more than Rs 10 crores of premium.



The Broker has a total revenue of more than five crores since 2016-17 and as per IRDAI (Insurance Brokers) Regulations, 2018, it is mandatory for an insurance broker who in a financial year earns more than rupees five crore remuneration (including reward) to have a designated compliance officer. Broker has appointed the compliance officer on 25th June 2018 i.e after 6 months of the publication of IRDAI (Insurance Brokers) Regulations, 2018 effective from 12th Jan, 2018.

Non appointment of designated compliance officer from the period 2015-16 to 2018-19, despite having premium/remuneration of more than the stipulated limit, is in violation of the Regulation.

Submission of the Broker:

The Broker submitted that it accepts on failing in appointing the Compliance Officer as required under the Regulation and it was unintentional and accidental. However, it did have its internal control and systems in place. Its Chief Financial Officer, Principal Officer and Statutory Auditors were constantly reviewing the business process and internal control. And the main objective and role of the Compliance Officer had never been compromised during this period of operation. Though the appointment has been delayed as it was at a nascent stage. The compliance officer was appointed when a query was raised during the process of 1st renewal.

Decision:

The Broker had not appointed a Compliance officer despite having remuneration more than the stipulated limit for the period 2015-16 to 2018-19 and the same has been accepted by the Broker in its submission. The Broker is cautioned for the lapse on its part in complying with the Regulation.

Further, the Broker is advised to adhere to Clause 3 of Regulation 31 of IRDAI (Insurance Brokers) Regulations, 2018 in letter and spirit.

5. Charge No. 2

Violation of Clause 3(b) and 12(a & b) of Schedule VIA under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013 (for the period before to 12th January 2018) and Clause 3(b) and 12(a & b) of Schedule I- Form H under Regulation 8(2) and 30 of IRDAI (Insurance Brokers) Regulations, 2018 (for the period after 12th January 2018)

It is observed from the policy records that following policies are solicited by people other than Broker qualified persons as tagged in their system.

Policy Number	Date as per proposal form
18371336	30-03-2016
330045335	30-08-2016
7526872	26-03-2018

Further four BQPs of the Broker did not renew their licenses in time resulting in a gap period between their composite license renewals. During these gap periods, they have canvassed a total of 29 life insurance policies & more than 51 non-life policies.

Submission of Broker:

The Broker submitted that it accepts both points made in the charge and it was an unintentional error on its part. It is informed that all its Policies are being solicited by BQPs only. However, the names mentioned in the proposal forms are of the persons, who have collected the proposal forms from the insured end. The BQPs have interacted and finalised the Policy with the Insured. The persons mentioned in the Proposal form are not the BQPs, the BQPs who have actually solicited the business has been duly captured in the system.

The Broker agreed that there was gap w.r.t renewal of license of the four BQPs. During this gap, they have not directly solicited any business and most of the Policies are the renewals and existing insured of the said BQPs. Therefore, the operation users have captured those Policies in its software with the respective BQPs only. However, the said business has been directly solicited by the other active BQPs in the said Branch/Office. The Broker further stated that for endorsement policies in SAIBA software, the name of the original BQP cannot be changed and for renewal the name of same BQP will continue unless he has left the organisation. In case of renewal, name of old BQP gets reflected inspite of gap in License. The Broker told that it is capturing the details in SAIBA software for ensuring solicitation of business by BQPs.

The Broker informed that it has built necessary system controls and assured that this type of gap would not happen in future.

Decision:

The Broker in its submission has accepted to the error on its part and such instances indicate that there are no proper checks and controls in Broker's office, with respect to solicitation.

With respect to first part of the charge, it is evident from the three proposal forms that the solicitation has been done by other than Broker Qualified persons. The name/signature of the individual involved in solicitation with respect to the referred three proposal forms are not of the Broker Qualified Persons being eligible for solicitation of insurance business. **In view of the above mentioned violation, by virtue of powers vested under Section 102 (b) of the Insurance Act, 1938, the Authority levies on the broker a penalty of Rs. 3,00,000/- (Rupees Three lakh only), which is calculated based on three policies solicited in three different dates (at the rate of Rs.1 lakh per day during which the violation identified) observed to have been solicited on different dates by using services of unlicensed individuals.**

With respect to second part of charge, the Broker submitted that the referred BQPs have not directly solicited any business and most of the Policies are the renewals of existing policies solicited by the said BQPs and the name of the existing BQPs are captured by the operation. However, documentary evidence furnished by the Broker is not sufficient to establish that there is no involvement of the BQP in solicitation. Hence the Broker is warned that no BQP should be involved in solicitation without having their license in-force.

The Broker is further directed to ensure that no agents or canvassers are utilised for solicitation of business and solicitation is done by Licensed Broker Qualified persons only in compliance with Clause 3(b) and 12(a & b) of Schedule I- Form H under Regulation 8(2) and 30 of IRDAI (Insurance Brokers) Regulations, 2018. In case of any gap in renewal of license of BQPs, the

broking firm to have controls to ensure that it doesn't accept any business under his code until license is renewed.

6. Charge No. 3

Violation of Clause 2(h) of Schedule I – Form H of IRDAI (Insurance Brokers) Regulations, 2018.

The Broker has not collected the mandates from its clients in the examined sample of 5 non-retail policies.

Submission of Broker:

The Broker submitted that it accepts that in the respective cases brokers mandate could not be collected from the Insured, as some of the SME clients were reluctant to provide any written mandate. The Broker informed that its management has taken a call to make compulsory for the BQPs to obtain written mandate from the clients to represent them as per the requirement of the regulation.

The Broker stated that in all the cases, they have mail trails where clients have confirmed acceptance of Broker and post hearing, it has submitted the mandates given by the respective clients.

Decision:

The submission of the Broker is taken note of. However, Broker is advised to adhere to Clause 2(h) of Schedule I – Form H of IRDAI (Insurance Brokers) Regulations, 2018.

7. Summary of Decisions:

The following is the summary of decisions in this order:

Charge No.	Brief Title of charge and the provisions violated	Decision
1	Charge: Appointment of Compliance officer Provision: Clause 3 of Regulation 31 of IRDA (Insurance Brokers) Regulations, 2013 (for the period before 12 th January 2018) and Clause 3 of Regulation 31 of IRDAI (Insurance Brokers) Regulations, 2018 (for the period after 12 th January 2018)	Caution & Advisory
2	Charge: Solicitation by other than BQP Provision: Clause 3(b) and 12(a & b) of Schedule VIA under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013 (for the period before to 12 th January 2018) and Clause 3(b) and 12(a & b) of Schedule I- Form H under Regulation 8(2) and 30 of IRDAI (Insurance Brokers) Regulations, 2018 (for the period after 12 th January 2018)	Penalty of Rs 3 Lakhs, warning and direction.



3	Charge: Not obtaining mandate letters Provision: Clause 2(h) of Schedule I – Form H of IRDAI (Insurance Brokers) Regulations, 2018.	Advisory
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8. As directed under the respective charges, the penalty of Rs Three Lakhs 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.

9. The Broker shall confirm compliance in respect of all the directions within 21 days from the date of receipt of this order. The order shall be placed before the Audit committee of the broking firm and also in the next immediate Board meeting and the Insurance broker shall submit to the Authority a copy of the minutes of the discussion.

10. If the Insurance 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.

The Broker is required to acknowledge receipt of this letter.

Sd/-
(S.N. Rajeswari)
Member (Distribution)

Place: Hyderabad

Date : 31 / 08/ 2021