



बीमा विनियामक और विकास प्राधिकरण  
**INSURANCE REGULATORY AND  
DEVELOPMENT AUTHORITY**

ORDER

Ref: IRDA/429/2/F&A/ORD/16/JUN-09

June 24, 2009

Shri Ritesh Kumar  
Chief Executive Officer  
HDFC ERGO General Insurance Co. Ltd.  
6<sup>th</sup> floor, Leela Business Park  
Andheri-Kurla Road, Andheri (East),  
Mumbai – 400 059.

Dear Sir,

**Levy of Penalty under Section 105B of the Insurance Act, 1938**

The Insurer was obliged under Sections 32B and 32C of the Insurance Act, 1938 read with the IRDA (Obligations of Insurers to Rural and Social Sectors) Regulations, 2002 as amended from time to time to cover prescribed number of lives of its general insurance business under the Social Sector.

On review of the data submitted by the insurer with the Authority, on the number of lives covered in the Social Sector for the financial year 2007-08, it was observed that the insurer is short of its obligations in the said sector by 137 lives i.e., against an obligation of 25,000 lives, only 24,863 lives have been covered.

In response to the Authority's show cause notice vide No. 429/2/F&A/RSSO-NL/98/Dec-08 dated December 31, 2008, the insurer has indicated that (i) due to the change in the joint venture partner there was an impact on day to day operations of the company; and (ii) the shortfall of 137 lives in 2007-08 has been made good in the year 2008-09 by covering 38,622 lives under the social sector as against the requirement of 25,000 lives. In view of the shortfall being nominal and having made good the said shortfall in FY 2008-09, the company has requested the Authority to take a considerate view, taking into account the facts and circumstances of the matter.

The Authority has carefully examined the response of the Company to the show cause notice and noted that the argument of the company that the shortfall has been made up in the subsequent year cannot be accepted as these obligations are not of a carry forward nature. For instance, it is noted that in the year 2005-06, the company covered 298,354 lives as claimed by the company, and if the carry forward theory is to be accepted, then that would mean that the company would not need to provide any coverage for the next several years.

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This certainly is not what social sector obligation implies. Secondly, the IRDA has noted that the business generated in 2006-07 was Rs.193.99 crores, and the business generated in 2007-08 was Rs.220.6 crores which shows that managerial difficulties, which have been held up as an excuse, does not seem to have affected the overall business and hence, cannot be accepted as a reason for shortfall in the social sector obligation.

However, noting that the shortfall is marginal and the total penalty which could have been levied is Rs.685 lakhs (at Rs.5 lakh for each instance), the Authority hereby holds the insurer responsible for failure to comply with its obligations towards the Social Sector in 2007-08 and levies a penalty of Rs.5 lakh for not complying with the provisions of Section 32B and the Regulations framed thereunder. The amount shall be paid to the Authority within 15 days of the receipt of this Order.

  
(J. Hari Narayan)  
Chairman