



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

Ref: IRDA/enf/ord/ons/ <sup>253</sup> /11/2017

**Final order**

(In the matter of M/S Almondz Reinsurance Brokers Pvt. Ltd subsequently known as Almondz Insurance Brokers Pvt. Ltd.)

This order is issued on the basis of the reply of Almondz Insurance Brokers private Limited (hereinafter called the broker) to the Show Cause Notice, by its letter dated 17th July 2017 and submissions made during Personal Hearing on 13<sup>th</sup> September, 2017 at 3.00 PM, taken by Member (Non Life) at the office of Insurance Regulatory and Development Authority of India, 3<sup>rd</sup> Floor, Parishram Bhavan, Basheerbagh, Hyderabad.

**I. Background:**

On site inspection of M/S Almondz Reinsurance Brokers Pvt. was conducted by the Authority during the period, from 10/11/2014 to 12/11/2014. The scope of Inspection was covering the periods FY 2012-13 and FY 2013-14, during which the Broker was an exclusive Reinsurance Broker. The Inspection findings were communicated to the broker for their comments on 27/02/2015. The broker submitted its comments to the Authority by its letter dated 09/03/2015. The broker subsequently registered as a composite Broker with validity period from 29/08/2015 to 28/08/2018 and known Almondz Insurance Brokers private limited. A show cause notice was issued to the broker by the Authority on 16/06/2017. The broker submitted its reply to the authority by its letter dated 17/07/2017. In its reply to the show cause notice, the broker had requested for the personal hearing. The personal hearing of the broker was conducted on 13/09/2017 at IRDAI office, 3<sup>rd</sup> Floor, Parishram Bhavan, Basheer Bagh, and Hyderabad.

Personal Hearing was chaired by Member (Non Life). The personal hearing was attended by Mr. Rohit Jain, Chairman; Mr. Vijay Kumar Suri, Principal Officer; Ms. Shweta Gupta, Company Secretary; of the Broking Company. From the side of the Authority in addition to Member (Non Life); Mr P.K. Maiti, General Manager, Enforcement; Mr Vikas Jain, Assistant General Manager, Enforcement and Mr. K. Srinivas, AGM, Intermediary department were also present.

**II. Charges, Submissions in reply thereof and Decisions:**

**1. Charge 1:** Regulation 31 of the IRDA Insurance Brokers Regulations, 2013 provides that 'the broker should ensure that their internal systems are adequate for the size, nature and complexity of its business'.

The broker was not using any software for reinsurance placement, registration, business administration and risk management service. The manual system of maintenance of

records, risk computation and overall business administration are inadequate considering the volume of reinsurance placements and the complexity of the nature of the business.

**Violation:** *The broker was not having adequate internal systems to handle the business given the nature and complexity of Reinsurance business transacted, the Reinsurance Broker was found to violate Regulation 31 of the IRDA Insurance Brokers Regulations, 2013.*

**Broker's Submission:** *The Broker submitted that initially they had purchased some software for maintaining their business records and proper business administration but none of that software could pass the test of merit and so they were using Excel based platform. Subsequently they submitted that they started using SARB software to take care of all their reinsurance business related needs and further during the personal hearing they confirmed that currently they are having fully functional software to take care of all their direct and reinsurance business related transactions.*

**Decision:** *In view of the submission of the broker, that they have fully functional software to take care of all their insurance and reinsurance related transactions, the charge is not pressed.*

**2. Charge 2:** It was evident from the mandate given by a Corporate Client (Insured) to the broker, dated 07/02/2013, in regard to the direct insurance and other documents annexed with the inspection report that the broker had placed the direct insurance policy of the said Insured with the help of a foreign broker which was not having broking license in India and another Indian Broker registered in India to solicit direct Insurance Business and it had shared the brokerage with these two entities in regard to an insurance policy of the said Insured.

During the period of inspection and collecting mandate from the Insured (07/02/2013), the Broker was an exclusive reinsurance Broker (having registration No 363) and was not permitted to solicit direct Business. Therefore the broker had violated regulation 2(o) of IRDA (Insurance Brokers) Regulations, 2013 and Para 2 of Schedule I under Regulation 4 of IRDA (Insurance Brokers) Regulations, 2013 by placing the direct insurance business. The broker has also violated Para 3(b) under Schedule VIA (Code of Conduct) of IRDA (Insurance Brokers) Regulations, 2013 by employing foreign broker not licensed in India (unlicensed entity) for placing the direct insurance business and sharing of the brokerage with them.

**Violation:** *The broker violated regulation 2(o) of IRDA (Insurance Brokers) Regulations, 2013 and Para 2 of Schedule I under Regulation 4 of IRDA (Insurance Brokers) Regulations, 2013 by placing the direct insurance business and Para 3(b) under Schedule VIA (Code of Conduct) of IRDA (Insurance Brokers) Regulations, 2013 by employing foreign broker not licensed in India (unlicensed entity) for placing the direct insurance business and sharing of the brokerage with them.*



**Broker's Submission:** *The broker submitted that they had not earned any brokerage on the direct insurance policy and they had the mandate from the client (insured) to explore a combined insurance program for their Indian and international assets. For this, the three parties mentioned in the mandate were authorized to work together and they had paid the other brokers, the professional fees.*

**Decision:** In the light of the mandate (Broker's Letter of Appointment) from the Corporate Client (Insured), authorizing the broker and other two entities (one foreign broker not registered in India and another Indian Direct Insurance Broker) for placing the Direct Business and other documents showing the sharing of brokerage by the broker to other two entities, it is clear that the broker had placed Direct Insurance policy with Indian Insurance company and had shared the brokerage with other Indian Direct Broker and a foreign broker. Hence, the broker had violated regulation 2(o) of IRDA (Insurance Brokers) Regulations, 2013 and Para 2 of Schedule I under Regulation 4 of IRDA (Insurance Brokers) Regulations, 2013 by placing the direct insurance business although it was registered to procure Reinsurance business only. The broker has also violated Para 3(b) under Schedule VIA (Code of Conduct) under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013, by employing a Foreign Broker (unlicensed entity) for placing the direct insurance business and sharing of the brokerage with them.

It is evident that Broker has financially benefitted by indulging the practice which is not in compliance to the regulations as stated above. A penalty of Rs.5 Lakhs (Rupees Five Lakhs only) is levied on the broker for the above violations as per the powers vested in the Authority under Section 102 (b) of Insurance Act, 1938.

**3. Charge 3:** It was observed that the broker was in practice of sharing offices, employees and other expenses with their group companies i.e., Almondz Global Securities Limited and Almonds Insurance Brokers. There was separate rental agreement for the office space visited by the inspection team with the group company - Almondz Global Securities Limited, however, clear distinction of the office space for the broker could not be observed at the premises. Therefore, the accuracy in sharing of various expenses expressed in the books of accounts is in question. A copy of rent agreement was examined.

**Violation:** As the broker does not have necessary infrastructure, such as, adequate office space, equipment and trained manpower to effectively discharge its activities it has violated regulation 8(2)(ii) of IRDA (Insurance brokers) Regulations, 2013.

**Broker's Submission:** The broker submitted that there is clear demarcation of space between the group companies and they have adequate man power and infrastructure and the sharing of expenses was on pro rate basis for common expenses like electricity water, pantry etc.

**Decision:** In view of the submission of the broker, the charge is not pressed. But the broker is advised to ensure clear demarcation of space and other resources while sharing with the group companies and maintain an arm's length relationship.



**4. Charge 4:** As per Regulation 34 (b) of IRDA (Insurance Brokers) Regulations, 2013, the licensed reinsurance/composite broker should not share more than 50% of the brokerage with the foreign broker for the service obtained from them'. In this regard it was observed that the broker did not have any system to ensure the compliance with the above stated regulation.

**Violation:** The broker has not submitted any document in order show the veracity of its submission and it had not submitted the copy of the agreements or any financial statements to the inspection team in this regard. In the absence of any such documents, it may be deemed the violation of regulations 34(3) of IRDA (Insurance Brokers) Regulations, 2013. Further, after the personal hearing the broker submitted the transaction level data in this regard.

**Broker's Submission:** The broker submitted that they have never made any breach of the above regulation. They also submitted that the remittance document undergoes a series of multi layer checks to ensure compliance with various regulations. Further, during the personal hearing the broker undertook to submit the transaction level data in regard to the sharing of the brokerage, which was later submitted by the broker.

**Decision:** In view of the above submission and in combination of the data submitted by the broker, charge is not pressed. However, the broker is advised to ensure the compliance to the regulation 34(3) of IRDA (Insurance Brokers) Regulations, 2013, in this regard.

**5. Charge 5:** From the sample policies solicited by the insurance broker, it was observed that, the Broker did not obtain the written mandate from the client to represent the client to the insurer and developing terms on the basis of the information provided by the client in violation of Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013.

**Violation:** The broker was found to violate the Para 2(h) of Schedule VI A under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013, pertaining to code of conduct.

**Brokers' Submission:** The broker submitted that the Code of conduct under Regulations 28 of IRDA (Insurance Brokers) Regulations, 2013 requiring every insurance broker to obtain written mandate from the client to represent the client to the insurer is primarily applicable to all direct insurance brokers and it being a reinsurance broker got instructions from the clients on mail for policy placement and at no point of time any insurance company had denied the placement made by them. Further, it submitted that in reinsurance business, the cedant issues only email confirmation for placement of the business and the same is equivalent to mandate letter. No cedant issues any other mandate letter.

**Decision:** In view of the submission that the broker was obtaining mandate through e-mail, the charge is not pressed. However, Broker is advised to comply with the





requirement of Para 2(h) of Schedule VI A under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013 and as amended from time to time.

**6. Charge 6:** The Professional Indemnity Policy taken by the broker had limits based on the date of occurrence of the claim. This was in violation to Clause 2(c) of Schedule III of the Brokers Regulations 2013. The clause refers that the policy should indemnify in respect of all claims made during the period of insurance regardless of the time at which the event giving rise to the claim may have occurred.

**Violation:** The Broker has violated the Provisions of Para 2 (c) of Schedule III under Regulation 13 (1) of IRDA (Insurance Brokers) Regulations, 2013.

**Broker's Submission:** The broker submitted that the policy has a retrospective date as March, 17, 2008. During the personal hearing, the broker undertook to submit the current policy of professional indemnity. From the current professional indemnity policy of the broker it was observed that the retrospective date is given as 19/05/2006 but the date of first license when the Almondz Insurance Broker (direct broker) with whom the broking entity was merged was 29/08/2003. The broker submitted that the broker has initiated necessary steps to revise the retroactive date as per the regulation.

**Decision:** In view of the submission of the broker the charge is not pressed. However, the broker is directed to ensure the compliance to the Regulation 13(1) by revising the retroactive date under the professional indemnity policy.

#### **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	<b>Charge :</b> Not having adequate software  <b>Provision:</b> Regulation 31 of the IRDA Insurance Brokers Regulations, 2013.	<b>Not Pressed</b>
2	<b>Charge:</b> Placing direct business and engaging unlicensed entity in placing the business.  <b>Provision:</b> Regulation 2(o) of IRDA (Insurance Brokers) Regulations, 2013 and Para 2 of Schedule I under Regulation 4 of IRDA (Insurance Brokers) Regulations, 2013 and Para 3(b) under Schedule VIA (Code of Conduct) of IRDA (Insurance Brokers) Regulations, 2013	<b>Penalty of Rs 5 Lakh and Direction</b>
3	<b>Charge:</b> Not have necessary infrastructure  <b>Provision:</b> Regulation 8(2)(ii) of IRDA (Insurance brokers) Regulations, 2013.	<b>Advisory</b>

4	<b>Charge:</b> Sharing more than 50% brokerage with foreign broker <b>Provision:</b> regulations 34(3) of IRDA (Insurance Brokers) Regulations, 2013	<b>Advisory</b>
5	<b>Charge:</b> Not collecting mandate from the cedants. <b>Provision:</b> Para 2(h) of Schedule VI A under Regulation 28 of IRDA (Insurance Brokers) Regulations, 2013	<b>Advisory</b>
6	<b>Charge:</b> Retroactive date in the personal indemnity policy not matching from the first date of license. <b>Provision:</b> Para 2 (c) of Schedule III under Regulation 13 of IRDA (Insurance Brokers) Regulations, 2013.	<b>Direction</b>

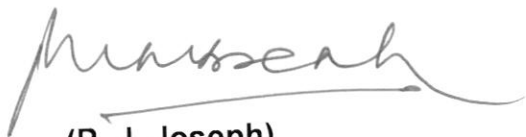
#### 8. Conclusion:

The Broking firm shall confirm compliance in respect of all the directions referred to in paras 1 to 6 of this Order, within 21 days from the date of receipt of this order.

As directed under the respective charges, the penalty of Rs. 5,00,000/- (Rupees Five Lakh Only) shall be remitted by the insurance broker, 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 Prabhat Kumar Maiti, General Manager (Enforcement) at the Insurance Regulatory and Development Authority of India, 3rd Floor, Parishrama Bhavanam, Basheerbagh, and Hyderabad- 500004.

The Order shall be placed before the Audit committee of the broking firm and also in the next immediate Board meeting and the licensed entity shall provide 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.

  
(P. J. Joseph)  
Member (Non Life)

Place: Hyderabad  
Date: 17<sup>th</sup> November, 2017

