Ref.No: IRDA/ENF/ORD/ONS/157/ 08 /2016

Final Order in the matter of M/s BHARTI AXA General Insurance Co Ltd.

Based on reply to the Show Cause Notice dated 8th April, 2016 and submissions made during Personal Hearing on 20th June, 2016 at 11.30 Am taken by Member (F&I) at the office of Insurance Regulatory and Development Authority of India, 3rd Floor, Parishrama Bhavan, Basheerbagh, Hyderabad.

The Insurance Regulatory and Development Authority of India (hereinafter referred to as "the Authority") carried out an onsite inspection of **M/s Bharti Axa General Insurance Co Ltd** (hereinafter referred to as "the general insurer") during 5th to 14th September, 2012. The Authority forwarded the copy of the Inspection Report to the general insurer on 07.12.2012 and the general insurer responded vide letter dated 04.03.2013. Upon examining the submissions made by the general insurer, the Authority issued Show Cause Notice on 08.04.2016 which was responded to by the general insurer vide letter dated 29.04.2016. As requested therein, a personal hearing was given to the general insurer on 20.06.2016. Sh Mr.Deepak Iyer, CEO & MD, Sh Pankaj Oberoi, Chief Distribution Officer, Sh Parag Gupta, Chief Underwriting Officer, Sh. Rajagopal Gopalan, Head-Operations & Claims, Sh Subbaraju Bhupathiraju, Vice-President & Head-Health claims, Sh Ashish Sarma, Chief Compliance Officer & Sh Kiran Kumar, Associate Vice President-Compliance were present in the hearing on behalf of the general insurer. On behalf of the Authority, Ms. V.R.Iyer, Member (F&I), Sh. Lalit Kumar, ED & HOD (Enforcement), Sh Suresh Mathur, Sr.JD (NL) & Sh K.Sridhar, Sr.AD (Enforcement) were present during the personal hearing.

The submissions made by the general insurer in their written reply to the inspection observations, Show Cause Notice and also those made during the course of the personal hearing have been taken into account.

The findings on the explanations offered by the general insurer to the Show Cause Notice and the decisions thereon are detailed below.

1. **Charge – 1**

It was observed that the insurer had entered into an agreement with Bharti Enterprises for receiving ***management services*** on 19th March, 2010. The agreement provided to render variety of services to insurer ranging from: 1) Formulation of strategy for distribution of various insurance products; 2) Liaison with team to provide insurance cover to customer of Bharti and Bharti Group. 3) Advisory support for Human Resources; the consideration for the contract was as follows:

परिश्रम भवन, तीसरा तल, बशीरबाग, हैदराबाद-500 004. भारत
✆ : 91-040-2338 1100, फैक्स: 91-040-6682 3334
ई-मेल: irda@irda.gov.in वेब: www.irda.gov.in

Parisharam Bhavan, 3rd Floor, Basheer Bagh, Hyderabad-500 004. India.
Ph.: 91-040-2338 1100, Fax: 91-040-6682 3334
E-mail : irda@irda.gov.in Web.: www.irda.gov.in

For services rendered up to 31.03.2010	Rs. 4.167 Crore
Annual Fees	Rs. 2.5 Croe

As per the agreement, the insurer shall appoint one resource to develop the strategic plan and such person shall always report to the COO of BAGIC. During Inspection period, no such person was present and no such reports for strategy formation or assistance were made available.

Violation of

Clause 2.2 and clause 11.2 of "Guidelines on Outsourcing of Activities by Insurance Companies Circular No. IRDA/LIFE/CIR/GLD/013/02/2011 dated: 01/02/2011.

Submission of the insurer:

The insurer submitted that the scope of services defined under the referred Management Services Agreement with Bharti Enterprises Limited did not include any activities referred under the heads "Core Activity" or "Non Core activity" under clause nos. 2.1 and 3 respectively of the Outsourcing Guidelines. Going by the definitions provided therein, they concluded that the consultancy and advisory services referred to in the agreement did not require reporting under the Outsourcing Guidelines. It was further informed that the agreement wasn't continued after the FY 2011-12.

Decision:

1) On examining the Public disclosure form NL31 of insurer on 'Related party transactions' of last quarter of FY 2012-13, it was noticed that insurer agreement with vendor was in force even during FY 2012-13 and has also made a payment of Rs.37.18 lacs during the last quarter of FY 2012-13 and Rs.231.67 lacs during the entire FY 2012-13. On seeking clarification from insurer during personal hearing it was submitted that the agreement was terminated on 31st July, 2013. Thus insurer has given incorrect information to the Authority in its reply to show cause notice.
2) The inspection observations were forwarded to insurer on 7th December, 2012. Even after the inspection observation, insurer has neither sought any clarification from Authority as required under para 13 of Outsourcing guidelines dated 1st Feb,2011 in case of any ambiguity on the reporting of outsourcing services nor reported the activity outsourced to M/s Bharti Enterprises in its subsequent Half yearly outsourcing statements filed with Authority.
3) Insurer failed to provide documentary evidence on the details of resource person appointed by vendor and reports on strategy formation or assistance provided by the vendor.

The insurer has violated the para 11.2 of Outsourcing guidelines issued vide circular no. IRDA/Life/CIR/GLD/013/02/2011 dated 01st February, 2011. The Authority in exercise of powers conferred under Section 102(b) of Insurance Act, imposes a penalty of Rs.5 lakh. Further, henceforth the insurer is directed to strictly adhere to Outsourcing guidelines issued from time to time.

2. **Charge – 2**

It was observed that the methodology adopted by the insurer for recognizing the premium deficiency' did not include the 'Maintenance costs (Management Expenses)' for the purpose of arriving at 'Premium Deficiency', as required under Reg. 3 of Part I of Sch. B of IRDA (Preparation of Financial Statements.) Regulations, 2002. By completely ignoring operating expenses in order to arrive at PDR, which was disclosed in the notes to accounts may not reflect true picture.

Violation of Regulation 3 of Part I of Sch. B of IRDA (Preparation of Financial Statements) Regulations, 2002 which stipulates that premium deficiency shall be recognized if the sum of expected claims cost, related expenses and maintenance costs exceed related reserve for unexpired risks.

Submission of the insurer:

The Claims data which is being considered for the PDR calculation already includes the allocated claims handling expenses, though the calculations performed did not explicitly make an allowance for claims related expenses and maintenance costs relating to claims handling. Going forward, we will include appropriate management expenses component in the PDR calculation.

Decision:

The Authority notes the insurer submission and no charge is pressed. Insurer is advised to be compliant with the procedure prescribed at Provision 2(2) of Schedule II of IRDAI (Assets, Liabilities and Solvency Margin of General Insurance business) Regulations, 2016 read with para 2.5 of the master circular ref.no.IRDA/F&I/Cir/F&A/231/10/2012 on 'Preparation of financial statements – General Insurance business' issued on 5th October, 2012 and corrigendum to master circular ref.no.IRDA/F&A/cir/FA/126/07/2013 dated 3rd July, 2013.

3. **Charge – 3**

It was noticed that as per policy administration system of the insurer, the tie-up arrangements were entered as "*Banca Referral intermediary*". As per various data furnished in soft form by the insurer, it was observed that insurer created 97 different codes for these Banca Channel intermediaries and instead of bank name insurer had allotted intermediary name as BAS-1, BAS-2, and BAS-3 and so on.

The details of intermediary code, name of the intermediary given by insurer, name of bank through whom business was sourced and premium booked under intermediary code for sample 32 banks was examined.

It was also observed from the policy administration system of the insurer that for some of the banks, the agent type for such banks was selected as BROKER.

It was observed that the insurer sourced insurance business of Rs. 2.60 Crs. in the year 2010-11 and Rs.4.30 Crs. in the year 2011-12 from these banks and booked as direct business in the books of insurer.
The insurer submitted 26 agreements entered into with banks for infrastructure facilities out of which six agreements were examined.

a) On examination of the above documents and the data the following were observed :
   i) As per the agreement the bank was providing infrastructure services i.e. space for display of insurer's banner, advertising material, establishing temporary kiosks for display of insurer products or non sales literature. Though the nature of services were defined i.e. providing of space, it was observed that the actual rates charged / payments made varied even for the same bank.
   ii) As per the agreement the services were providing infrastructure. However, it was stated in the note by the insurer that the payments were based on *nature of services and the volume of work* or *locations involved* and the *negotiation skill of the local officers*. .
   iii) The agreed rates and the basis of the bills raised by banks varied from month to month for the services provided by the banks. The reason for variation in the bills raised by these banks was not addressed.
   iv) As per above mentioned note "*These rates were discussed by the local officials of the Company with the respective bank and then were agreed based on the requirement,"* However, it was observed that the agreed rates were not recorded in the agreement, apparently to accommodate varying payments.

It was, therefore, evident from the above that these banks were soliciting and procuring insurance business for the insurer.

Violation of Authority's circular IRDA/CIR/011/2003, dated 27-03-2003 which gives no insurer shall distribute the product through any person who is not licensed as per provisions of Insurance Act 1938.

Submission of the insurer:
The insurer submitted that the purpose of engaging the services of these banks under these agreements was to ensure that the Company reaches out to the remote areas not covered by branches, to approach the customer of these entities by the company employees and to provide an opportunity to the sales staff of the Company to create awareness and selling potential of insurance business. The bank entities referred to in the inspection report were not intermediaries and did not receive any commission or brokerage for the business and by data entry error the bank was referred as broker. These codes were created primarily for internal use and reference by the sales staff and not for the purpose of creating intermediary code. The said fields in the cover note/proposal forms etc were non-mandatory fields and the sales channel were given freedom to fill in the details that helped them ascertain the data relevant for their monitoring and performance measurement.

On banks being referred as broker, insurer submitted that this was a data entry error as a result of which the bank was mentioned as a broker but brokerage was not actually paid.

The rates would be negotiated by the local officers on time to time basis & based on his assessment of work involved, presence and strength of the entity. The quantum of service fee would depend on the space utilized and the facility availed.

Decision:
Decision is at **Charge 6** of the Order.

4. **Charge – 4**

Insurer furnished the details of payouts made to banks for the year 2010-11 and 2011-12. On examining the data , the following issues were observed.

i) There were multiple payments to the bank under different vouchers in the same month(s) for the similar services.

ii) There were discrepancies with respect to the amount payable, considering the Quantity and Rate indicated in the bill and the actual bill amount.

It was further observed that insurer is paying to the banks for the services which were not in the above mentioned agreements. The insurer had paid to these banks for services like printing and developing of sales literatures, without valid agreement in place. The services of banks include imparting of insurance training in areas of Fire Insurance / other training and the insurer was paying bills for the same. Thus, Insurer did not have proper system and internal controls in place for checking of services provided by vendors were in line with agreement and payments made thereon were for the agreed services.

Violation of Clause 6 of Annexure II of IRDA Guidelines on Corporate Governance Circular no. IRDA/F&A/Cir/025/2009-10 dated 05/08/2009 for failure to comply with internal control.

Submission of the insurer:
The insurer submitted that as far as the multiple payments to the entity as per the agreement entered into between the Service Provider and Bharti AXA general Insurance was concerned, the Service Providers could raise one or more bills for the same depending on the services availed.

The discrepancies in the amounts with respect to the amount payable was on account of the fact that the final negotiation was done by the local staff and the agreed price might be equal to or lower than the recommended rates for the services.

Decision:
Decision is at **Charge 6** of the Order.

5. **Charge – 5**

Insurer is procuring the business through its referral partner i.e. banks for whom the intermediary names were given as BAS-1, BAS-2 and BAS-3 etc., and accounting the said business under direct code. It was observed that insurance premium sourced through Dr. Annasaheb Chougule Urban Co.Op. Bank Ltd. BAS-38 was booked in the account of an unauthorized entity. The intermediary code no. allotted as per insurer policy administration system is 82000048.

As per the data extracted from the policy administration system of the insurer it was noted that , sixty four (64) referral bank intermediary codes were generated after 01-07-2010 i.e. after notification of IRDA (Sharing of Database for Distribution of Insurance Products) Regulation, 2010, and Bank / non Bank description was given as "**Banca Referral.**"

Despite the fact of 97 Referral Intermediary Codes were found in the books of the insurer during the course of inspection, the insurer vide e-mail dated 07-09-2012 furnished incorrect confirmation to the inspection team that they did not have referral arrangement as on date on inspection.

It was found that though the business was sourced by referral business partners i.e. banks, the insurer was not printing intermediary name in some of the policies. Instead the code words like *"BAS-1, BAS-13, BAS-14 or Bharati Axa General Insurance Co. Ltd."* were printed on the policy. The policy holders were put into inconvenience in recognizing the intermediary name and contact details. This indicated that insurer did not have proper systems and controls in place on underwriting of policies, and it would have implications in terms of AML / KYC norms, claims handling and other litigations.

Violation of Authority's circular IRDA/CIR/011/2003, dated 27-03-2003 which states that no insurer shall distribute the product through any person who is not licensed as per provisions of Insurance Act 1938.

Submission of the insurer:

The insurer submitted that they were not procuring or soliciting business through the banks. With reference to the point made in the respect to the underwriting base documents they would like to clarify that the data fields such as Intermediary name, staff code etc were not mandatory fields; therefore the staff might identify the location/source of business as the name of the bank, only for the purpose of identifying the same for better servicing the customer.

In the matter of Annasaheb Chougule Urban Co-op Bank, we submit that it was a genuine data entry error and the same has been corrected. The insurer further submitted that the Company had not paid any commission to any person for the policy nor any referral fees.

The insurer submitted that the company created the codes for directly sourcing the business by its own employees; however the insurer accepted the description in the

P400 was inaccurate & has been corrected. The insurer further submitted that the Company did not have any referral agreement in existence. The 97 codes mentioned in the report were not for bank referral business and the policies were directly sold by the Company staff and the policyholders were directly serviced by the company, therefore the policyholders were/are not inconvenienced.

Decision:
Decision is at charge 6 of the Order.

6. Charge – 6

The samples of 94 policies booked under the 30 direct codes were examined. It was observed that insurer had given direct agent codes to unauthorized firms / individuals / motor dealers.

i) For the intermediary code created under Direct Business channel, the insurer had given licensed broker(s) name. On going through the above mentioned distribution channel model and from the practices adopted by the insurer, it is observed that the insurer is using name of licensed brokers to a particular direct code and booking of business under that direct code which was actually sourced through unauthorized entity viz. motor dealer / firm / individual.

i) Thus, the insurer is soliciting and procuring insurance business through unauthorized entities.

ii) There are about 4500 entities providing the marketing services to the insurer on pan India basis.

iii) It was informed that corporate office of insurer was receiving bills for these marketing services from their various branches in India. It was observed that no bill was scrutinized / certified by any official of the branch of the insurer. Without receipt of any scrutiny / confirmation about satisfactory fulfillment of said services the corporate office of the insurer processed the bills of Rs. 80 Crs. and Rs.128 Crs. for the years 2010-11 and 2011-12. It is evident that insurer does not have proper system and controls / maker checker procedures in place, for such payments.

iv) As per the bills raised by all these 4500 entities it was observed that they are conducting training on the insurance subjects viz, Fire, Marine, Engineering, Health, Motor, every month, on various location in India for the employees, corporate partners of the insurer.

v) The said data does not include any of the training as detailed in above mentioned bills raised by Motor dealers / Individuals / Firms and other entities and paid by the insurer. Insurer had not submitted any details about name of participants of such training programmes, venues, feedback forms submitted by the participants. Thus, the training is used as a camouflage for making payments to these unauthorized entities for sourcing of insurance business.

vi) As per the documents examined, the insurer availed following services from its service providers; Prepare daily report, Prepare report on market analysis on various objective parameters and / or Prepare reports on marketing awareness in general.

But insurer had not provided any reports submitted by its vendor for examination of the inspection team.

vii) It was observed that individuals / entities were raising multiple bills in the same month and for the same services.

viii) On examination of sample cases, it was also observed that these entities are collecting premium amount for and on behalf of the insurer. The collection of premium is not a service as per above mentioned agreements entered into these entities.

ix) It is evident that all these entities were engaged in procuring and soliciting of insurance business for the insurer. In order to accommodate the payouts towards sourcing the insurance business insurer entered into insurance services agreements with these entities and made the payouts. The payments made to these entities are on the basis insurance premium sourced only.

Violation of

- Authority's circular IRDA/CIR/011/2003, dated 27-03-2003.
- Clause 11.2 of "Guidelines on Outsourcing of Activities by Insurance Companies Circular No.IRDA/LIFE/CIR/GLD/013/02/2011 dated: 01/02/2011.

Submission of the insurer:

The insurer submitted that they had noted the observation made in the inspection report. They would ensure that the data was captured correctly and consistently in the cover note /proposal form and system. Insurer submitted that the company engages the services of service providers across the country for promotional activities to create insurance awareness and for creating insurance penetration as well as to keep the brand name known to the general public and customers in a highly competitive market.

The insurer submitted that the point 18 of the agreement entered into between the Service Provider and Bharti AXA does not provide for sourcing of insurance business for the company by the Service Provider. The insurer submitted that no payments were made to unauthorized entities for insurance business sourced by them for Bharti AXA General Insurance

Decision on charge 3, 4, 5 & 6:

On examining the available documents and submissions of the insurer on charge 3 to 6, it is noted that

a) Insurer was making payments towards infrastructure expenses to corporate agents. To name a few; Deccan Merchants Co-op Bank Ltd with license no.8935589, Punjab Gramin bank with license no.8962558, Adarsh Co-op bank ltd with license no.8928121, Dr.Annasaheb Chougule Urban Co-op bank ltd with license no. 9487961 and TS Mahalingam & Sons Finance Division with license no.1174289.

By entering into agreements with these entities and making payments, insurer has not complied with clause 21 of Corporate agents guidelines ref.no.017/IRDA

/circular/CA guidelines/2005 dated 14-07-2005 and para 4 & 8.4/5 of Outsourcing guidelines circular ref.no.IRDA/Life/CIR/GLD/013/02/2011 dated 1st February, 2011.

Further, on seeking clarification from insurer on the status of agreements with two corporate agents i.e Dr.Annasaheb Co-op bank and Adarsh co-op bank, insurer submitted that the agreements were not in force as on the date of its reply letter dated 24/06/2016 but has not referred to the agreement termination date. Similarly on asking whether the infrastructure agreements with other corporate agents were still in force, insurer only stated that the company still has infrastructure agreements with few vendors including banks and motor dealers and stated that it doesn't have any other arrangements with corporate agents.

Thus insurer has not confirmed on terminating its existing infrastructure agreements with corporate agents. As such, insurer is advised to terminate all such agreements which doesn't comply with the Authority guidelines/circulars by 31-03-2017 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 to ensure full compliance to Outsourcing guidelines.

b) On sample examination of payouts to licensed entities with license nos.8562076 & 8663373, it was noted that insurer was in the practice of making additional payouts to licensed entities in the name of workshop, training, distribution of publicity materials, preparation of documents etc., thereby not complying with Authority circular no.011/IRDA/Brok-comm/Aug-08 dated 25-082008 and para 8.4/5 of Outsourcing guidelines circular ref.no.IRDA/Life/CIR/GLD/013/02/2011 dated 1st February, 2011. Insurer is directed to terminate all such agreements intended to facilitate additional payouts to licensed entities by 31-03-2017 and to give an update on a regular basis until compliance to the direction

c) Payment was made by insurer to Veerashiva bank for organizing fire training to partners & workshop on sales negotiations. Similarly agreements with Express BPO services, Arshdeep Financial services, Kokila Mahesh Sanghvi etc., to whom payments are in the range of Rs.8.33 cr, Rs.0.79cr & Rs.2.22 cr during the FY 2011-12 was towards services such as training, publicity material distribution, collection of details, providing claim forms, workshop on forecasting techniques etc. These services are not regularly offered by these bank/vendors in their normal course of business and making such huge payments towards these services to these vendors raises serious doubts on the genuineness of the payouts made by the insurer. Insurer is advised to re-examine all such agreements as per para 10 of Outsourcing guidelines dated 1st February, 2011 on the services outsourced and terms and payment and to submit an action taken report by 31-03-2017 and to update on a regular basis with full details of the agreements examined/terminated until compliance to the direction

d) Insurer in its submission has mentioned that it has terminated all its referral agreements w.e.f 31/12/2010. After issuing of Sharing of Database Regulations on

1st July,2010, Authority again advised insurers vide circulars dated 12th July,2010 and 9th August, 2010 to immediately terminate all such referral agreements which were not compliant with the Regulations. However, it is noticed that the company has neither cancelled its referral agreements nor the company has suitably modified or amended the agreements in terms of the Regulation issued on 1st July, 2010, within 6 months from the date of notification of the Regulation. Further, no prior approval of Authority was obtained for continuing the referral arrangement after modifications or otherwise. Henceforth, insurer is advised to ensure strict compliance hereinafter to the regulation.

e) Insurer in its database has referred three banks as broker to which insurer clarified that it was data entry error and submission of insurer is noted.

f) The policy administration system of the insurer mentions the tie-up arrangements as "*Banca Referral intermediary*" and allotted intermediary name as BAS-1, BAS-2, BAS-3 and so on. The codes were referred as intermediary in the covernote / proposal form and the channel description was given as bancassurance. After terminating the referral arrangements with the referral partners, insurer entered into infrastructure agreements with referral partners such as The Jolarpet Urban Co-op Bank Ltd, The Vaniyambadi Urban Co-op bank, Vellore District Central Co-op bank, Amritsar CC bank, Saurashtra Urban Co-op bank, Periyakulam Co-op bank, Madurai Dist co-op bank etc., Charges paid to a bank branch for the same service during a particular month varied from bill to bill with difference in the unit rate of payment. Further, on seeking clarification on payment terms of infrastructure agreements, whether the payment was linked to premium or on policy basis, insurer has not provided any documentary evidence in its submission made post personal hearing.

On examining the proposal from/cover notes, insurer was advised to provide license details of two sample intermediary codes i.e. of IMD code no.M17118 with code no.71000766 and IMD code M58212 with code no.82000048, but insurer could not provide any documents in its support in post personal hearing submission. Further, it is noted that unauthorized intermediary details are available on the proposal form and the policy document shows it as a direct channel business. Thus it is understood that the insurer created intermediary codes for unauthorized entities, soliciting business and getting it booked under direct channel and making payout under the head of professional fees.

Thus from above, it is evident that insurer has solicited business through other than licensed entities and has not exercised due diligence while entering into agreements

In view of the violations observed, the Authority in exercise of the powers vested in Section 102(b) of the Act imposes a penalty of Rs. 5 lakh each amounting to Rs.10 lakh, for the violation of Authority circular no.IRDA/CIR/011/2003, dated 27-03-2003 and Clause 6 of Corporate Governance guidelines.

7. **Charge – 7**

On examining the licensing documents of M/s. Apex Financial Service (IRDA Lic. no. 4461508) and M/s. Growmore Insurance Service Pvt. Ltd. (IRDA Lic. No. 3084207), it was observed that

i) Few of the documents required under IRDA (Licensing of C.A.) Regulations, 2002, for licensing of corporate agents were not made available for inspection.

ii) As per application Form IRDA-Corporate Agents-A-1 dated 20-09-2009 of M/s. Apex Financial Services, it was observed that CIE signing the application was one different from the one as per IRDA license dated 03-11-2009.

iii) The insurer had not entered into service level agreement with all the four CAs, which is in violation of Reg. 9 (1) (h) of IRDA (Licensing of C.A.) Regulation, 2002.

Violation of

- Reg. 4 of IRDA (Licensing of C.A.) Regulation, 2002 for not maintaining qualification certificates of CIE
- Reg. 9 (1) (h) of IRDA (Licensing of C.A.) Regulation, 2002 for not entering into service agreements with the four corporate agents.

Submission of the insurer:

a) Insurer submitted that Qualification Certificates of CIE (12th Mark sheet) were missing for CIE of Apex Financial Services who has a composite license with a life insurer and Bharti AXA General Insurance Co. Ltd.

b) The CIE at the time of licensing with Bharti AXA General Insurance Co. Ltd. was later on Life Company had changed the CIE on IRDA Portal. Certificate for completion of practical training for SP is not applicable for both the corporate agents as there were no specified persons and only CIE were licensed.

c) Service Level Agreements were signed with most corporate agents and were printed with the Corporate Agency Application form.

Decision:

From the replies of the insurer, it is evident that the insurer is not maintaining proper record of the documents and has also not entered into SLA with all corporate agents of the insurer.

Insurer is hereby advised to ensure existence of SLA agreement with every corporate agent, to maintain proper record of the documents submitted by corporate agents and as directed in the Regulation the insurer through the corporate agents shall solicit and procure only reasonable number of insurance policies commensurate with their resources and the number of specified persons they employ.

8. **Charge – 8**

It was observed that insurer had accepted the business through M/s. Willis India Insurance Brokers Pvt. Ltd. The business was accepted after Authority Order No. IRDA/BRK/ORD/LC/54/4/2011 dated 04-04-2011, vide which Authority refused to renew the composite license for the said broker. Sample details of business sourced through this broker are as under;

Rs. in Lakhs

Sr No	Policy No.	Endorsement No.	Reason for Endorsement	Risk Commencement date	Risk end date	Type of Business	Date of issue	Prem .Amt.
1	MCO/I06010 17/22/04/MR TA02	New Business	--	25-04-11	24-04-2012	New Business	15-06-11	2.21
2	MCO/I06010 17/22/04/MR TA02	01 (21-09-2011) EB1122MCO0 32760	Enhancement of Sum Insured	29-08-11	24-04-2012	Endorsement	21-09-11	0.44
3	MCO/I06010 17/22/04/MR TA02	02 (14-12-2011) EB1122MCO0 36694/EC1	Enhancement of Sum Insured	06-12-11	24-04-2012	Endorsement	14-12-11	2.76
4	MCO/I06010 17/22/04/MR TA02	03 (13-01-2012) EB1122MCO3 7657	Enhancement of Sum Insured	26-12-11	24-04-2012	Endorsement	13-01-12	0.66
						TOTAL		6.07

Insurer also paid brokerage on the business sourced the details of brokerage paid are as under;

Sr. No.	Financial Year	Brokerage Paid as per Form 26Q (TDS data) (Rs. In Lakhs)
1	2010-11	38.16
2	2011-12	1.76

Violation of Provisions of Reg. 17 (2) of IRDA (Insurance Brokers) Regulation, 2002, which stipulates action against any company / firm, etc who knowingly a party to such contravention shall also be liable to be proceeded against.

Submission of the insurer:

The insurer submitted that the Company first issued Marine policy in Mar 2010 for the client through Willis India Insurance Brokers Private. The policy was renewed by Willis India Insurance Brokers Private Limited in Mar 2011 & subsequently was pending due to the IRDA circular IRDA/BRK/ORD/LC /54 /4/2011. Company in interest of the customer issued the policy & further endorsed Sep 2011, Dec 2011 & Jan 2012. No brokerage was paid to Willis India Insurance Brokers Private Limited in the policy period. The policy expired in Mar 2012 & was not renewed by the company. Though the brokerage was triggered in the system, the Company never paid the brokerage to Willis India Insurance

Brokers Private Limited. Company acknowledged that the said policy was inadvertently shown in the system as new business.

Decision:

On observing from available documents that brokerage was paid through NEFT transfer after license cancellation, insurer informed during personal hearing that though commission bill was generated it was not released. As such, clarification was sought from insurer to provide details of business solicited and commission paid to broker after license cancellation along with information of brokerage paid as per form 26Q and 31B2 statement filed with Authority. Insurer has not provided the commission/business details in its post personal hearing submission which indicates non compliance by insurer to the Authority Order on accepting business after cancellation of license.

The observed payments not being substantial, no charge is pressed. However, the insurer is strictly warned to exercise utmost caution to ensure compliance to Authority circular no.IRDA/Dist/Brk/Cir/Misc/204/10/2013 dated 11th October, 2013 and Regulation 16 of IRDA (Insurance Brokers) Regulations, 2013.

9. Charge – 9

It was observed that insurer is paying commission to unauthorized persons / entities and making additional payment other than commission amount to licensed entity. The policy wise commission details and the copies of bills rose by the individuals / licensed agents, for whom payment was made under IT Section 194J (Professional Fees), were examined. The issues observed from the above mentioned details were as under;

- The insurer accepted business solicited and procured by unauthoirzed entities.
- The insurer had paid to its licensed intermediary more than stipulated commission

Violation of

- Clause 8.4 of "Guidelines on Outsourcing of Activities by Insurance Companies Circular No.IRDA/LIFE/CIR/GLD/013/02/2011 dated: 01/02/2011.
- Circular 011/IRDA/Brok-Comm./Aug-8 dated 25.08.2008.wherein it is mentioned that no payment of any kind is permitted to be made to the agent or the broker in respect of the business in respect of which he is paid commission or brokerage.

Submission of the insurer:

The insurer submitted that the vendors were one of the service providers empanelled for rendering various services as per the agreement till April, 2010 and the payments were made accordingly. However, this vendor was enrolled as agent subsequently and started soliciting the insurance business for the company and hence commission was paid in respect of the policies procured.

Decision:

a) It is observed that insurer is making payout under commission head to unauthorized entities (to individuals before being licensed w.r.t license no.s 1960689 & 4752350) which clearly indicates solicitation of business from unauthorized entities. However, charge being imposed at charge 6 above on similar observation and a direction being given under point 'c' of decision of charge 6 advising insurer to re-examine the agreements, no further charge is pressed.

b) Further, on examining the documents, it is also noted that insurer was making payouts other than commission to tied agents with license nos 8064758, 8562076, 8663373, 8462644 & IMD no.20000879. **In view of the violation observed of commission circular and outsourcing guidelines, the Authority in exercise of the powers vested under Section 102(b) of the Act imposes a penalty of Rs. 5 lakh.**

10. Charge – 10

It was submitted by the insurer that they had conducted contests for their distribution channel and had paid / given rewards for the same amounting to Rs.35.53 lacs during 2010-11 and Rs.91.44 lacs during 2011-12. These rewards include luxury gifts and foreign trips to its distribution channel.

The copies of payment vouchers, invoices raised by travel companies were noted. Despite frequent oral / e-mail reminders, the insurer had not submitted the details for contests floated for which above mentioned Business Promotion expenses were made. Further, the insurer had not furnished the names of beneficiaries to whom these gifts / foreign trips were awarded. In absence of this information, the actual premium sourced, commission paid and monitory benefit received by award of gift / foreign trip to the beneficiaries / intermediaries could not be examined.

Thus, the insurer under the garb of business promotion, had paid more than stipulated commission to its intermediary

Violation of Authority circular no. 011/IRDA/Brok-Comm/Aug.08, dated 25-08-2008 1938 on limits of payment of commission.

Submission of the insurer:

Insurer submitted that out of the total expenditure only an amount of Rs 27,73,053/- was spent on agent trips and gifts while the rest was spent on Bharti AXA's own employees and also submitted the details of the employees sponsored for one of the foreign trips.

Decision:

Reference is invited to decision point 'b' under charge 9 of the Order, where a penalty has been imposed on insurer for additional payouts to licensed entities, hence no further charge is imposed.

Insurer attention is drawn to Authority circular dated 25-08-2008 advising insurers not to make additional payment in any kind in respect of the business on which the licensed entity is paid agency commission/brokerage. Insurer is advised to ensure compliance to the circular on payouts to licensed entities.

11. Charge – 11

i. It was observed that the insurer has allowed 87.20% discount on the base rate in policy no. I0274475. The discount allowed exceeds the maximum discount of 85% filed.

ii. The insurer was not following the rates and modifications / discounts based on the actual experience for experience-rated and exposure rated products and large risks as observed from the sample policies listed hereunder. The insurer was maintaining the same rates / discounts in spite of adverse incurred claims ratio was exceeding 100%.

iii. As per the Underwriting Guidelines, the 'Smart Plan Business Advantage Package policy' is available for a maximum sum insured of Rs.100 Crore under Section I and the Discount in premium not to exceed 70%. It is observed that the said guidelines filed under file & use were violated in respect of the sample policies examined where discount upto 85% was allowed of the SFSP rate under Section I and accepting Sum insured upto Rs.109.07 crs.

Violation of

a) Circular No. 021/IRDA/F&U/Sep. 06, dated 28-9-2006 for allowing higher discounts in premium than approved by the Authority under "F&U" guidelines.

b) Circular no. IRDA/NL/Cir/F&U/003/01/2011 dated 6th Jan, 2011 which stipulates that no premium quotation is given which is outside the range filed with IRDA

Submission of the insurer:

a) Appropriate action was taken on all renewal accounts where the loss ratios were adverse. Such corrective action could be either in the form of increased pricing, increased deductibles or revision in the terms and conditions of the policy by insertion of appropriate warranties etc. However, under certain circumstances, the company might renew certain policies with higher discounts bearing in mind the overall profitability of the client's portfolio.

b) It is admitted that there was a lapse in terms of accepting the policies with marginally higher sum insured and discounts allowed do not breach the overall discount level of 85% for property as permitted by the authority. Steps would be taken to ensure that such lapses did not recur in future.

Decision:

Maximum discount for all good risk factors allowed under F&U approval is 85%, whereas insurer allowed discount beyond 85% in few cases, renewed few policies with discount where loss ratio exceeded 100%, failed to provide the details of the discount factors along with the discount percentage w.r.t five underwritten policies referred in inspection observation and also not confirmed whether the discount factors/percentages were as per the F&U approval. Thus insurer has not only deviated from the F&U guidelines but also from the Board approved underwriting policy. Insurer is advised to put limits/checks in system on allowable discounts as approved by the Authority and also to examine the rating aspects during the internal audits.

Further decision is at charge 23 on violation of F&U guidelines.

12. **Charge – 12**

It was observed that there was a short collection of premium of Rs.1354414/- and to circumvent the Sec.64 VB of Insurance Act the policy was issued adjusting the sum insured to match the premium received with an intention to pass an endorsement for the difference of premium on collection subsequently.

Violation of Sec.64 VB of Insurance Act, 1938.

Submission of the insurer:

It was submitted that the captioned policy was a renewal of the company since 2009 as part of a global programme. As is the practice with liability policies, in the absence of precise information on turnover, a provisional premium of Rs. 13,78,750 was collected based on turnover under expiring policy. Subsequently, upon receipt of information on estimated turnover, balance premium was collected. An endorsement was issued effective from the date of receipt of balance and not from inception of policy.

Decision:

Submission of the insurer is noted and no charge is pressed.

13. **Charge – 13**

It was noticed that the insurer is not using the prospectuses of products sold. Only Brochures are used containing the brief scope of cover, important exclusions, conditions and warranties.

Violation of Reg. 3(1) of IRDA (Protection of Policyholders' Interests) Regulations, 2002 and rule 11 of Insurance Rules 1939.

Submission of the insurer:

The insurer submitted that brochures are used for easy understanding of the Customers at large, containing important summary of the products in line with prospectus. While preparing Brochures, it is kept in mind that all the important product features are made

known to Customer to enable them for making a decision. Further, the brochure also advises the customer to read the complete terms and conditions of the policy before purchasing the same.

Decision:
As per Regulation 2(e) of IRDA (Protection of Policyholders' Interests) Regulations, 2002, a brochure is also considered to be a prospectus, as such no charge is pressed. However, insurer is advised to comply with Regulation 3 of IRDA (Protection of Policyholders' Interests) Regulations, 2002 on making available the product information to prospect to ensure that full material information of the product is available for taking an informed decision at the point of sale.

14. Charge – 14

It was observed that insurer was not furnishing a copy of proposal to the insured within 30 days of acceptance of risk

Violation of Reg. 4 (1) of IRDA (Protection of Policyholders' Interests) Regulations, 2002 which stipulates that it is the duty of an insurer to furnish to the insured free of charge within 30 days a copy of the proposal form.

Submission of the insurer:
The insurer submitted that they had started sending the copy of the proposal form in respect of Health Policies.

Decision:
Decision is charge 15 of the order.

15. Charge – 15

The insurer was recording the information obtained orally or in writing. However, no confirmation or communication of the same within a period of 15 days thereof with the proposer though such information was incorporated in the policy.

Violation of Reg 4(4) of IRDA (Protection of Policyholders' Interests) Regulations, 2002.

Submission of the insurer:
The insurer submitted that in respect of small policies the proposal forms were collected. In case of large commercial risks the information submitted in the closing slip of the broker was incorporated in the policy.

Decision for charge 14 & 15:
It is the duty of insurer to furnish a copy of the proposal form to the insured free of charge within 30 days of the acceptance of a proposal. A such, on this aspect, insurer is advised to ensure compliance to Regulation 4(1 & 4) of IRDA Protection of Policyholders' Interests) Regulation, 2002.

16. **Charge – 16**

It was noted that the insurer has appointed surveyors within 72 hours of intimation (3 days) in 543 out of 689 (79%) claims and exceeded the time limit in 146 cases as per the details furnished.

Violation of Sec. 64 UM (2) of Insurance Act, 1938, Reg. 9 (1) of IRDA PPI Regulations, 2002 wherein it is stated that in respect of claim settlement under a general insurance policy, if a surveyor has to be appointed, it shall be so done within 72 hours of the receipt of intimation from the insured.

Submission of the insurer:

The insurer submitted that out of 146 cases, 53 claims pertain to GPA where the date filled in is the date of appointment of investigator/medical review. In another 84 cases there were some data entry error and there has been delay in appointment of 9 cases only. The company was complying with the TAT norm in almost all cases except very few and even there the delay was primarily due to intervening holiday.

Decision:

Taking note of the submissions of insurer that the delay in appointment of final surveyor was only in few cases that too due to intervening holiday, no charge is pressed.

Insurer is advised to take appropriate steps to avoid delay even in such cases and also to capture in its system details such as date of claim intimation, date of surveyor appointment, date of receipt of last document from claimant and date of submission of final surveyor report.

17. **Charge – 17**

It is observed that 32 claims out of 152 claims during 2010-11 and 125 claims out of 435 motor theft claims were settled as non standard basis.

Violation of GR8 of Insured Declared Value of IMT, 2002.

Submission of the insurer:

While handling the theft claims, whenever there are issues, rather than repudiating the claim we prefer settling the same on non-standard basis with the consent of the insured, to service and support the insured.

Decision:

No charge is pressed, taking note of the confirmation of the insurer that rather than repudiating due to claim deficiencies, the claims were considered on non-considered basis after obtaining consent of claimant. Insurer is hereby advised to ensure compliance to General Regulation 8 of tariff wordings.

18. **Charge – 18**

Discrepancies were observed in wordings of the cover note of insurer and Form 52 in terms of Rule 142 Sub-Rule (1) of the Central Motor Vehicles Rules 1989.

Violation of Form 52 in terms of Rule 142 Sub-Rule (1) of the Central Motor Vehicles Rules 1989 and File & Use Guidelines (Circular No. 021/IRDA/F&U/Sep. 06, dated 28-9-2006)

Submission of the insurer:

The insurer submitted the purpose of the existing cover note was to obtain more details about the insured's' profile for better servicing. However, consequent to inspection team observation, the Cover note has been revised strictly in accordance with Form 52 of Rule 142(1) of the Central Motor Vehicles Rules 1989.

Decision:

Insurer submission is noted and no charge is pressed.

19. **Charge – 19**

It was observed that insurer had three national level tie-ups with motor three manufacturers such Hyundai Motor India Ltd, Hindustan Motor Ltd and Ashok Leyland Ltd and paid a service fee of Rs.23.15 lacs during two FYs 2010-11 & 2011-12. A few of the provisions mentioned in referred agreements are quoted hereunder;

Para II (b)	"Facilitate relationship between Bharti Axa GI and the Dealerships for availability of **Insurance Services** to Customers by Bharti Axa GI in terms of this Agreement.
Para V (d) - Consideration	Bharti Axa GI agrees to pay such fee as may be agreed between the Dealer and Bharti Axa GI by way of a separate arrangement for the services rendered by the Dealer.
Definitions : Insurance Services:	for the purpose of this Agreement shall mean and include all or any of the below mentioned services provided by Bharti Axa GI viz, a) Issue and/or renewal of motor insurance policies to the customer, b) Modifying or Cancelling such policies by necessary endorsements, c) Processing of claims d) Intimating the Customers about the renewal of such policies through mailers or tele-calls and any incidental services arising or specified o contemplated hereunder.

It is observed that the above mentioned agreements with manufacturers were to facilitate the arrangement with motor dealers for sourcing the business.

Violation of

- Clause 11.2 of "Guidelines on Outsourcing of Activities by Insurance Companies Circular No. IRDA/LIFE/CIR/GLD/013/02/2011 dated: 01/02/2011, wherein it is

mentioned that insurer shall file a report in Form A within 45 days from the end of every half year in respect of each of the outsourced activities.

- Clause 2 of "Guidelines on Outsourcing of Activities by Insurance Companies Circular No. IRDA/LIFE/CIR/GLD/013/02/2011 dated: 01/02/2011 wherein "core activities" to be performed by the insurer are defined.

Submission of the insurer:

The insurer submitted that the purpose of the arrangement was to enable the sales staff of the Company to directly approach the customers of the dealers tied to the Manufacturer to sell the motor policies. The purpose of these arrangements was an enabler for the sale staff for using the dealers' offices. The term "Insurance Services" is used in the context of the insurance products offered by the Insurance Company and is clearly defined as the services offered by the insurance company in clause III "Role of Bharti AXA GI".

The clause VI specifically provides that the manufacturer or dealer shall not provide any insurance services does not mean solicitation services by either manufacturer or dealer.

The Agreement which Company has with above mentioned Motor Manufacturers specifically mention that the Manufacturer/dealers shall only provide the infrastructure and not engage in solicitation of insurance.

Decision:

On examining the terms of the three agreements referred, following are the observations:

- In all the three agreements, reference was drawn to offering of core services under the agreement, which need to performed by insurer. The terms of the agreement were not apparent on offering of these services by the insurer.
- In two of the three agreements reference has been drawn to a specific licensed broker under the definition 'broker', which clearly implies that the agreements were meant to benefit a particular broker.
- Under point 'C' on 'Role of insurer' in the agreement with M/s Hindustan Motors Pvt Ltd, insurer agreed to deal with the broker nominated by the motor manufacturer.

Service fee paid by insurer not being sizeable, no charge is pressed. Insurer is hereby advised to review the terms of all such agreements and provide a report to the Authority by 31-03-2017 and to give an update on a regular basis until compliance to the direction.

20. Charge – 20

On examining the agreements entered with motor manufacturers, insurer was asked to provide motor dealer wise information of FY 2010-11 & 2011-12 in specified tabular format with details such as name of motor dealer, vendor code, premium procured through the dealerships and payments made other than claims.

In spite of frequent verbal reminders and e-mails, the data was not submitted by the insurer during the course of inspection. It is evident that the insurer had created various intermediary codes for motor dealers and business sourced through them was booked under given intermediary codes. The data was sought to find out the exact business sourced through motor dealers. However, motor dealer wise data sought was not submitted by the insurer.

Violation of Section 33(3) of Insurance Act,1938.

Submission of the insurer:

The Insurer submitted that since the company does not enlist either the manufacturers or the dealers as intermediaries, there is no data available with reference to the business sourced through them. Further submitted that

1. Intermediary codes used in the core insurance system reflect the agent or broker or direct sales under which the business was booked. Motor dealers provide us with opportunity to sell direct or through agents but are not an intermediary nor an insurance seller hence have no relation to this system. Intermediary codes have not been created for them but rather for whoever is responsible for insurance sales.
2. Motor dealers are engaged for various services which eventually allow our staff or intermediaries to source business from the customers- but there is no direct co-relation between the services rendered and the sales themselves.
3. The company has data for the premium generated for various makes and models of vehicles for different manufacturers- however as explained in the point earlier the core insurance system only records these transactions with respect to the insurance selling intermediary, not the dealer of the car.
4. The Company did provide the details of payments made to all its vendors to the Inspection and as also the premium register and all other details that we could be produced as mandated by the team-however for this particular set of information requested- since there is no system managed database that exists that could be produced in the manner and form requested by the inspection team; we were unable to provide the same.

   Basis the above, we request the Authority to sympathetically consider our predicament and drop this observation.

Decision:

a) On examining the data, it is noted that insurer has allotted 4184 & 6586 direct codes in its policy administration system and solicited 56.79% & 55.06% of total business under direct channel during the FYs 2010-11 & 2011-12. Similarly marketing services were provided by 3427 & 4466 entities to the insurer during the FYs 2010-11 & 2011-12.
b) At charge 6 of the observation, it was noted that the bills raised by the 4500 entities was for conducting training on the insurance subject and several licensed agents of other insurers were amongst the 4500 entities and were also paid towards services.

It was also observed that business solicited through an unauthorized entity code no.71000766 was booked under direct channel and the code/account no allotted to the entity was shown in the policy document, which clearly indicates that the vendor details are matched at policy level and data can be retrieved by insurer. Instances of similar nature i.e solicitation by unauthorized entity as per proposal form/cover note and booking under direct channel has been observed by the inspection team in few sample cases on verification of policies of FY 2010-11 & 2011-12.

c) Also, on examining the public disclosure form NL-40 as at 31/03/2015 it is observed that the company has solicited 13.06 lacs policies under direct channel comprising to 66% of the total policies with just 1175 employees on roll as at 31/03/2016. Soliciting such a huge no of policies with this count of employees seems to be unrealistic.

d) Further, as per para 9 of the Outsourcing guidelines dated 1s Feb,2011, insurer is expected to do cost-benefit analysis of the outsourced activity/vendor and to review the performance on an annual basis and for doing this act, insurer is expected to maintain the data sought by the inspection team. By informing that the data is not available, insurer accepted the lapse and not compliant with Authority Outsourcing guidelines.

In view of the failure to provide the information sought by the inspection team, the Authority in exercise of the powers vested in Section 102(b) of the Act imposes a penalty of Rs. 5 lakh.

The company is advised to review all its existing outsourcing by 31-03-2017, so as to be compliant with outsourcing guidelines dated 1st February, 2011. Insurer is also advise to give an update on a regular basis until compliance to the direction 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 and to comply with all applicable rules issued by the Authority from time to time. Further, the company is strictly advised to solicit business only from licensed entities and not to encourage or solicit business from unauthorized entities in the name of outsourcing agreements, since substantial amounts of operating expenses are incurred by way of payments to vendors under outsourcing agreements which perhaps include payments for procurement of business under various guises to producers and around 66% of the policies solicited by insurer is under direct channel.

21. Charge – 21

From the underwriting documents of policy issued to M/s. AGS Entertainment Pvt. Ltd, it was observed that the policy was renewed for the period 06-01-2012 to 05-01-2013, and the renewal premium as per covernote was 387235/-.

As per insurers receipt dated 25-01-2012, it was observed that insured / proposer had paid Rs. 371868/- vide cheques dated 05-01-2012 and balance premium Rs.15367/- was paid by intermediary with license no.8138222 vide cheque dated 05-01-2012.

Violation of Sec. 41 of Insurance Act, 1938.

Submission of the insurer:
Insurer submitted that they received the full premium towards the vehicle insurance. However, they would investigate this case further for the alleged rebating and if found true, they would initiate necessary action against the agent.

After investigation we found that in the concerned case the differential premium was paid by the Agent since the policy was due to lapse midnight of 05-01-2012 and the insured was not in town to obtain the differential premium. In order to give continuity to the insurance coverage and provide hassle free service to the Insured the Agent had provided the cheque and post that recovered the amount from the Insured. Agent has confirmed the same to the Company and therefore there is no rebate provided by the Agent. Letter from the Agent confirming that the difference of premium received from the Insured is attached.

Decision:
Taking note of the submission of insurer no charge is pressed.

22. **Charge – 22**
Premium amount of Rs.4,16,890 on Policy No. I0708763, was paid by third party i.e. M/s. Express BPO Services Pvt. Ltd. vide cheque no. 790603 dated 05-11-2-11. Insurer accepted insurance premium payment from third party without ascertaining the insurable interest.

Violation of clause 3.1.1 (v) of AML master circular updated in 2008, which stipulates to establish insurable interest if the payment is made by a third party.

Submission of the insurer:
The insurer noted the observation. Informed that they were strengthening their quality control process to avoid such errors.

Decision:
Insurer submission is noted and no charge is pressed. Insurer is advised strengthen system to avoid accepting cheques from agents/third parties and also to establish insurable interest before accepting the cheques.

23. **Charge – 23**

It was observed that there was a difference of premium rates as per Annexure- VIII filed under File & Use guidelines and rating as per Underwriting Manual of the insurer. The insurer was charging the premium for GPA as per rates mentioned in the underwriting manual. It was noted that insurer applied loading / discount on the rates as mentioned in their underwriting manual and the loading of the premium ranged between 11% to 217% and discount in premium ranged between 8% to 73%. Upon verifying the premium computation for the said policies on the basis of filed rates under F & U guidelines, it was found that the loading of premium was worked out 6% to 164% and discount in premium was between 11% to 84%. The following issues are noted in respect to the underwriting done by the insurer for 'Group Personal accident' business:

i. The insurer had not adhered to rates filed under F & U guideline with the Authority and marketed the GPA policies with revised rates.
ii. The minimum and maximum Loading / discount applied in the policies are not as per filed rating structure.
iii. The rates applied for extension of Medical Expenses is not as per filed rating structure.
iv. The insurer offered heavy discounts despite the high operating ratios mentioned hereinabove. Hence, the insurer has deviated from the discount structure filed with the Authority and contravened para 1 to be read with para 3 (vi, viii & ix) of circular no. 021/IRDA/F&U/SEP-06 dated 28-09-2006, file & use guidelines issued by the Authority.
v. In the absence of any limit applicable for allowing 'discretionary/commercial/additional discounts' and without any mechanism for monitoring the experience in the cases where significantly higher discounts were offered, the underwriting policy of the insurer was not updated. This is evident from the significant unfavorable 'net operating ratio' during 2009-10 to 2011-12, as noted in the table above. In this regard, insurer has not complied with the requirement of *'the rating guide/schedules should be designed to produce an operating ratio of not exceeding 100% on gross basis'* as per Para 6 of the Authority's circular 048/IRDA/De-tariff/Dec-07dated 18-12-2007.

The insurer has not undertaken effective underwriting measures to improve the performance of the business despite suffering huge underwriting losses during 2009-10 to 2011-12. The insurer continued to allow underwriting discounts even after losses.

Violation of

- Para 1 to be read with para 3 (vi, viii & ix) of F&U circular no. 021/IRDA/F&U/SEP-06 dated 28-09-2006.

- Para 6 of the Authority's circular 048/IRDA/De-tariff/Dec-07dated 18-12-2007 which stipulates that the rating guides should be in compliance with underwriting policy as approved by the Board of Directors and they are designed to produce an operating ratio not >100%.

Submission of the insurer:

Insurer submitted that the Group Personal Accident product is generally part of a bouquet of products offered to corporate clients and was also an experienced rated product. In such cases, the company would examine the profitability of the portfolio of the client as a whole and hence in select cases, it might be necessary to offer rates in line with market expectations. Nevertheless, the company had also taken steps to improve the performance of the GPA line of business as can be evidenced by the fact that the net underwriting loss had dropped from 9.29 crores in 2009-10 to 3.17 crores in 2011-12. However, the company had noted the observation of the authority on deviation between F&U rates and those in the underwriting manual and should take immediate steps to ensure that such deviations were eliminated.

Decision for charge 11 & 23:

The insurer has accepted the lapse of deviation between the F &U rates and rates given in the underwriting manual. **In view of the violation of F&U guidelines, the Authority in exercise of the powers vested in Section 102(b) of the Act imposes a penalty of Rs. 5 lakh.**

24. Charge – 24

The following are the issues observed from underwriting documents of individual personal accident policies.

a. As per "*Annexure VIII - Rating Manual (IPA) revised*" for IPA polices, the Loading and Discount factor and scale including Superior Plans was maximum upto 5% (both Loading and / or discount). Whereas, it was observed from above details that loading on premium was ranging from 0.28% to 23% and discount allowed on the premium was ranging from 21% to 81.25%. This is in breach of File and Use guidelines issued by the Authority.

b. Further, it was noted in some of the above mentioned cases, where the insured fall under Occupation Category I, the insurer had charged the higher rate of premium as per the Occupation Category II, which is also in violation of F & U guidelines of Authority and its own underwriting guideline.

c. Policy No. I0822508: The reason for applying of 23% loading on the premium was not submitted by the insurer. On examining the quote slip and policy document, it is noted that coverage of Double Indemnity for death or PTD and Temporary Total Disablement was not given by the insurer, though the premium was charged.

d. Policy No. I0287450: The reason for applying of 15% loading on the premium was not submitted by the insurer. On examining the quote slip and policy document, coverage of Double Indemnity for death or PTD and Hospital Daily Cash, were not given by the insurer, though the premium was charged.

e. Policy No. I0313337: The reason for applying of 3% loading on the premium was not submitted by the insurer. On examining the quote slip and policy document, coverage of Double Indemnity for death or PTD was not given by the insurer, though the premium was charged.

f. Policy No. I0624808, I0625311, I0625523: The reason for allowing 21% discount on premium was not submitted by the insurer. On examining the policy document, no risk details are given by the insurer.

g. Policy No. I0656974: The reason for allowing 21% discount on premium was not submitted by the insurer. On examining the policy document, no risk details are given by the insurer.

Violation of

- Circular no. 021/IRDA/F&U/SEP-06 dated 28-09-2006, File & Use guidelines issued by the Authority.
- Para 5 and 6 of the Authority's circular 048/IRDA/De-tariff/Dec-07dated 18-12-2007 which stipulates that the rating guides should be in compliance with underwriting policy as approved by the Board of Directors and they are designed to produce an operating ratio not >100%.
- Reg. 7 (1) (b) (e) (f) (i) (m) (p) of IRDA (Protection of Policy Holders Interest) Regulation, 2002 which stipulates about matters to be stated in general insurance policy.

Submission of the insurer:
Insurer submitted that the discounts and loadings are in line with the filed product with the Authority.

Decision:
In the submissions insurer failed to provide the details of loadings on the sample policies pointed by the inspection team in its report. Since a charge being imposed on the insurer for violation of F&U guidelines at charge no.23, no further charge is proposed for violation of F&U guidelines.

With regard to not providing of full information on the perils covered towards which the premium has been collected, insurer has not provided any documentary evidence nor replied in any of its submissions. Thus insurer has not complied with Regulation 7 of IRDA (Protection of Policyholders' Interests) Regulations, 2002

In view of the violation the IRDA (Protection of Policy Holders Interest) Regulation, 2002, the Authority in exercise of the powers vested in Section 102(b) of the Act imposes a penalty of Rs. 5 lakh.

25. **Charge – 25**

The copies of policies of Smart Health Insurance plan along with base underwriting documents / closing slip were examined. The issues observed in this matter are as under;

i) In the above mentioned policies the loading charged on the premium was ranging between 1% to 98% and discount allowed on the premium was ranging between 2% to 44%. Whereas, the point no. 3, page no. 7-8 of Annexure – VII, underwriting guidelines filed with the Authority reads as *"The Total loading / Discount in any case shall not exceed 15% on Premium Rates mention in Annexure – VIII."*

ii) For underwriting of Smart Health Insurance policies, the insurer had followed revised premium rates along with deviation of limits in loading / discount of premium, which is in contravention of File and Use guidelines of the Authority.

Violation of

- Para 1 to be read with para 3 (vi, viii & ix) of F&U circular no. 021/IRDA/F&U/SEP-06 dated 28-09-2006.
- Para 6 of the Authority's circular 048/IRDA/De-tariff/Dec-07dated 18-12-2007 which stipulates that the rating guides should be in compliance with underwriting policy as approved by the Board of Directors and they are designed to produce an operating ratio not >100%.

Submission of the insurer:

We draw your kind attention to the F&U guidelines dated 30th June, 2008, point 6.1.3, which states – The authority to rate proposals with such a deviation will rest with the Chief Underwriting officer.

Decision:

At para 6.1.3 of the F&U document of the product referred, insurer has not provided any details to Authority while filing the F&U document on the permitted extent of variation. As such, insurer understanding on having permission for any level of deviation by the Chief underwriter is not correct. Further, the sample policies referred in the observation are individual policies of a class rated product and at point 6.12 of the referred document insurer submitted that the maximum variation would be 15% of the applicable rates.

A penalty being imposed on violation of F&U guidelines, the insurer is hereby advised to scrupulously follow the rating of the products as per the F&U approval and any deviation noticed herein after would be viewed seriously.

In conclusion, as directed under the respective charges, the penalty of Rs. 35 lakh (Rupees Thirty Five Lakh only) shall be debited to the shareholders' account of the general insurer and the amount shall be remitted to Insurance Regulatory and

Development Authority of India within a period of 15 days from the date of receipt of this Order. The penalty shall be remitted through the NEFT as per details being intimated to the insurer as per a separate e-mail. The transfer shall be made under intimation to Mr.Prabhat Kumar Maiti, JD-Enforcement.

Further,

a) The General Insurer shall confirm compliance in respect of all the directions referred to in this Order, within 15 days from the date of issuance of this order. Timelines, if any as applicable shall also be communicated to the Authority.

b) The Order shall be placed before the Audit committee of the insurer and also in the next immediate Board meeting and to provide a copy of the minutes of the discussion.

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

(V R IYER)
Member (F&I)

Place: Hyderabad
Date: 09.08.2016