



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

Ref. IRDA/ENF/MISC/ONS/091 /04 /2017

Final Order in the matter of M/s. Bajaj Allianz Life Insurance Company Limited

Based on the reply to Show Cause Notice dated 19th January, 2017 and submissions made during Personal Hearing, chaired by Mrs. V. R. Iyer, Member (F&I), Insurance Regulatory and Development Authority of India (IRDAI) on 10th March, 2017 at 11:00 A.M. at the office of Insurance Regulatory and Development Authority of India, 3rd Floor, Parishrama Bhavanam, Basheerbagh, Hyderabad.

Background

The Insurance Regulatory and Development Authority of India (herein after referred to as IRDAI/Authority) had conducted an onsite inspection of M/s. Bajaj Allianz Life Insurance Company Limited (Hereinafter referred to as "the Life Insurer/Company") during 16th July, 2014 to 25th July, 2014.

The inspection was intended to check the compliance of the Life Insurer to the provisions of Insurance Act, 1938, IRDA Act, 1999, Rules, Regulations, Circulars, Guidelines and other directions issued there under by the Authority. The inspection covered the activities of the Life Insurer for the financial years 2011-12 and 2012-13.

The Authority forwarded a copy of the report to the Life Insurer on 19th November, 2014 and the reply was received at the Authority vide letter dated 29th December, 2014. Post scrutiny of the first compliance, the Authority had raised further queries on some of the observations for which the Life Insurer submitted their responses vide letter dated 25th August, 2016, emails dated 27th October, 2016, 7th November, 2016, 21st November, 2016, 8th December, 2016, 15th December, 2016, 20th December, 2016, 5th January, 2017 and 6th January, 2017. Upon examining the submissions made by the Life Insurer vide the communications referred herein, the Authority issued a Show Cause Notice on 19th January, 2017 which was responded to by the Life Insurer vide letter dated 15th February, 2017. As requested therein, a personal hearing was given to the Life Insurer on 10th March, 2017. Mr. Ramandeep Singh Sahni, CFO and Interim Principal Officer, Mr. Sai Srinivas Dhulipala, Appointed Actuary, Mr. Ravi Kutumbrao, Head (Operations), Mr. Anil P M, Head Legal & Compliance and Mr. Manish Kumar Jha, AVP-Legal & Compliance were present in the hearing on behalf of the Life Insurer. On behalf of the Authority, Ms. Mamta Suri, CGM (F&A), Mr. Prabhat Kumar Maiti, GM (Enforcement), Mr. Gautam Kumar, DGM (Life), Mr. C.S. Kumar, DGM (Actuarial), Mr. K. Sridhar Rao, AGM (Enforcement) and Ms. Lekshmi R. Pillai, Manager (Actuarial) were present in the personal hearing.

The submissions made by the Life Insurer in their written reply to Show Cause Notice, the documents submitted by the Life Insurer in evidence of their submissions in reply and also those made during and post personal hearing, have been considered by the Authority and accordingly the decisions thereon are detailed below.

Charges, Submissions in reply thereof and Decisions

Charge No.1

Ageing analysis of the outstanding Maturity claims pending at the quarter ending June, 2014 revealed that large number of maturity claims were pending for settlement. Further it was also observed that no follow up action was taken to dispose the same.

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

Violation of Regulation 8 of IRDA (PPI) Regulations, 2002

Submission by the Life Insurer

The company is in practice of sending automated communications viz., 180 days prior to maturity date, reminder letter 30 days prior to maturity date and SMS sent to policyholders 90 days, 60 days, 30 days, 20 days and 10 days before maturity date. Accordingly, payouts are processed on receipt of all the required documents from policyholder. Further to submit that maturity cases largely pertain to annuity policies which have attained their date of vesting and the policyholders are yet to exercise their preferred annuity option. In several such cases the total amount available on vesting is less than Rs. 1 lakh which may not be sufficient to purchase an immediate annuity plan from any insurance Company, given the non-availability of such product.

The Company has taken steps to reduce the outstanding claims such as call attempts on each and every un-settled case where contact number is available, sending a further communication in addition to the two communications already sent and displaying unclaimed date on Company website as per regulatory requirements. Further, the Company proposed to take further steps in terms of seeking help from Branch officials and sales team for updating contact details and trying to achieve increase in collection of discharge forms.

As a result of the above initiatives, it is to submit that 14,331 claims pending at the beginning of July 2014 reduced to 1044 as on 1st March, 2017. On an overall basis, significant reduction was achieved in outstanding maturity claims post revision in process. Total outstanding claims as on 28th February, 2017 is 9338 as against 14331 as on 30th June, 2014, in spite of significant increase in the number of policies which have attained maturity status (752,521 as on February, 2017 as against 30229 as of June, 2014). It is to further submit that only 20% of overall maturity claims were outstanding as on 28th February, 2017 older than one year as against 39% observed at the time of inspection.

Decision

The percentage of maturity claims outstanding for more than a year as on the date of inspection was 39%, is considered to be very high. The data of maturity claims brought out by the inspection team of the Authority indicates that there was huge scope for improvement in the systems in place at that point of time. The latest data of outstanding maturity claims submitted by the Life Insurer also indicates that the systems in place are still insufficient to settle the maturity/annuity on the date of maturity/vesting of annuity. It shall be noted that a claim on a policy is core contractual obligation of the Life Insurer and in particular, maturity claim is a company initiated claim the happening of which is very well known in advance. The Life Insurer is warned for not ensuring compliance with the provisions of Regulation 8 of IRDAI (Protection of Policyholders' Interests) Regulations, 2002 and directed to endeavor for settlement of maturity claim/annuity on the maturity/vesting date. It shall further be ensured that applicable penal interest is paid for the cases where the delay is on the part of the Life Insurer. The Life Insurer shall submit action taken report in this regard.



Charge No.2

Under a group employee benefit (linked product) policy (master policy number.0300786114), cancellation of units towards mortality charges was deferred. Mortality charges started deducting after one year from the actual transaction date.

Violation of Clause 6 of Annexure II of Corporate Governance Guidelines, 2009 and ULIP Guidelines, No.032/IRDA/ACTL/Dec-2005, dated 21/12/2005.

Submission by the Life Insurer

For group Employee Benefit product, mortality charges get deducted through scheduler on annual basis; hence all months' mortality charges got deducted on the said date. The same was done due to functionality developed by the Company for the old products. In case of new products, all the charges are deducted on the respective dates. The percentage of mortality charges against total corpus comes to only 0.041% and the percentage is 0.073% against all the Group Employee benefit policies together. The amount involved was Rs.10, 743 for the particular policy and Rs.11, 23,189 at a portfolio level. Hence, it is submitted that failure to deduct mortality charges on monthly basis will have negligible impact. It is further to submit that functionality for deduction of mortality charges in accordance with the File and Use was developed in April, 2015.

Decision

The mortality charges shall be levied at the beginning of each policy month from the fund. Hence it can be construed that the mortality charges are recovered post expiry of risk period. It is fundamental to place proper systems to ensure deduction of mortality charges as per respective File and Use. The Life Insurer has not ensured the same. Though the impact is low, placing the systems is utmost important. The Life Insurer is warned for the same. The submissions that the Life Insurer has now placed systems mortality charges in accordance with the File and Use are noted.

Charge No.3

The Life Insurer has written off the advances given to Corporate Agents towards Business Development Expenses and Infrastructure Support charges by allocating the same to Policyholders account. By writing off the said advances, the Life Insurer has benefitted the intermediaries involved.

Violation of Authority's directions issued under order Ref: IRDA/ LIFE/ORD/ MISC/169/ 8/ 2013 to stop payments to Intermediaries and Violation of Clause 21 of Corporate Agency Guidelines, 2005.

Submission by the Life Insurer

The issue of payments other than commission to Corporate agents during the relevant periods already dealt with by the Authority in its final order Ref.IRDA/ LIFE/ ORD/ MISC/169/ 8/2013 dated 21/08/2013 and the Company confirmed vide letter dated 4th October, 2013 its stand with regard to termination of existing arrangements and making alternative suitable



arrangements. Considering that the services with these entites(Intermediaries) were discontinued as per the Authority's direction and hence chances of recovery of advances made were remote, the decision to write-off the advance payments was taken at the end of FY 2013-14 in concurrence with the Statutory Auditors. Further, the Board Audit Committee had also been apprised about such write-off of advance payments in its meeting held on 10th May, 2014.

The decision to write off the said advances was based on principles of "prudence" which is one of the underlying assumptions to be adopted in preparation and presentation of financial statements as prescribed by ICAI which requires the preparers not to overstate assets in scenarios including where uncertainty around collectability of receivables is present. Further AS 28 (Accounting Standard 28) on Impairment of Assets also specifies that, assets should not be carried at an amount exceeding their recoverable value and any excess should be expensed off in the revenue / profit & loss account. It is to confirm that the Company continue to pursue its efforts to recover the said advances and have been able to recover an amount of Rs. 18.5 Crores till date, which have been allocated to the different business segments in the same proportion in which advances written off were allocated. The Company is also hopeful to recover more sums in the future.

The agreements entered into with the corporate agents were in the nature of non-compete, infrastructure, and business development arrangements. The fees were also paid under these heads.

The Company understands that other insurers while terminating similar arrangements with corporate agents, pursuant to their penalty orders, have expensed out the amounts paid to such corporate agents. However the Company also terminated such arrangements and have been showing these amounts as advances as the duration for which the agreements were entered into have not run their course, as on their date of termination and have in fact managed to recover an amount of 18.5 Crores from these entities. Hence the approach is better suited to serve the interests of the policy holders and the Company. The write off is only an accounting treatment and the company continues with its efforts to recover these amounts.

Basis the Company's expense allocation methodology followed until 2015, total expenses of the company were allocated to various lines of businesses broadly at Company level weighted average new business, renewal and paid up premiums. The current enhanced policy on allocation of expenses, as approved by the Board Audit committee, is far more granular where the expenses of each channel are allocated basis the most relevant driver of that expenses. The share of total expenses allocated to the participating policyholders up to FY2015 as per the old methodology has been much lower as compared to revised and more robust allocation methodology. The same had been exhibited to the Authority during the course of submitting response to the Authority's show cause notice dated 18th November, 2015 for contravention of provisions of Section 40B of Insurance Act, 1938 and Rule 17D of Insurance Rules, 1939 pertaining to expenses of management.

Further a certificate duly signed by the Appointed Actuary, confirming that the interests of the par policyholders were not affected (by the said writing off of the advances) is submitted.



Decision

The violation by way of wrong and excess payment to such entities is already established and the Authority had already directed vide its final order dated 21st August 2013 to terminate and discontinue payments to Intermediaries in the nature of business development expenses, infrastructure support, advertising/ marketing arrangements etc. The Authority in its order had not given any direction to write-off the advances made to the referred entities. This was done by the Life insurer on their own. This write-off was not approved specifically by their Board Audit Committee, which was only apprised about such write-off of advance payment to these entities. Life Insurer claims compliance with AS-28. As the asset is a fictitious asset in a way (Advance payment for expenses), the said standard is not applicable. Even if the argument of AS-28 is to be considered, the standard lays down certain external and internal criteria to be met to be able to provide for impairment. Further, termination of contract is no proof to show that the amount is not recoverable. The entities continue to be Intermediaries with the Life insurer and as confirmed by the Life insurer, Rs 18.5 Crores is already recovered.

It shall be noted that any prepaid expenses/advances have to be recovered by following due process as per the relevant accounting standards which stipulate recognising/ maintaining/ writing off. With regard to submissions of the Life Insurer that the expenses allocated during that period was low, it shall be noted that the same will not justify the writing off of the advances and certainly the act of the Life Insurer will definitely have impact on policyholders both par/non-par, i.e., for par policy holders the surplus may have been understated and for non-par policy holders, there will be a bearing on pricing of the products.

Further the Life Insurer has been non-compliant with the limits on expenses of managements since four financial years. The above practice will definitely have a bearing on the Life Insurer's compliance with the same.

The Life insurer is warned for taking a unilateral approach of writing off the advances under the guise of Final order (referred herein) issued by the Authority.

Further, the Life Insurer is directed to take all the steps to claw back the remaining advances referred herein.

Charge No.4

The Life Insurer engaged the services of their individual agents on the basis of performance as "Agency Development Partners" (ADP) to identify, recruit, train, mentor and develop agents/insurance consultants for the purpose of selling the insurance products. The activities to be performed come under the purview of outsourcing. However, outsourcing to individual agents is prohibited.

Violation of Clause 8.5 of Outsourcing Guidelines IRDA/LIFE/CIR/GLD/013/02/2011 dated 01/02/2011.



Submission by the Life Insurer

With respect to the above observation, the Authority had raised this issue in the earlier inspection report. The Company had accordingly responded to the issue and the Authority had accepted the explanation provided by the Company. The Authority had issued Advisory dated 21st October 2013 to the Company pursuant to the aforesaid inspection which was responded to the Authority and was accepted by the Authority vide letter dated 16th December, 2013.

The Company under the bonafide belief that the ADP's activity was an extension of the activity performed by an agent (other than solicitation) and hence in line with Clause 8.5 of Outsourcing Guidelines, 2011. Such engagements were being reported to the Authority under half-yearly outsourcing reports. In this regard, the Authority also raised queries pursuant to outsourcing reporting for the relevant period in 2013 which was responded by the Company. Post response of the Company, no further directions were received from the Authority.

It is further to submit that the scheme was revised from August, 2016 disallowing engagement of individual agents as ADPs and this is to confirm that as on 31st January, 2017, no individual agent of the Company is acting as ADP.

Decision

It is to be noted that the earlier inspection observation referred by the Life Insurer pertains to engaging individuals for the purpose of mentoring the agents. However, the present observation indicates that the Life Insurer has engaged individual agents as ADPs. It shall be noted that the agents shall not be contracted to perform any outsourced activity other than those permitted by the respective regulations/instructions governing their licensing and functioning. Hence the Life Insurer has violated the said provisions of Outsourcing Guidelines, 2011 by engaging individual agents as ADPs. The Life Insurer is warned for the same. The submissions of the Life Insurer that the process of engaging individual agents as ADPs was discontinued are noted.

Charge No.5

All premiums received with respect to non-linked policies were transferred to Traditional Pool Account (Bank A/c No. 0526608000) which is a shareholders account. Only at the end of the each month, after receipt of actuarial liability requirements and in case of deficit, funds are transferred from shareholders' fund to respective policy holders' fund. Thus, any income derived on such premium receipts were credited to the shareholders' funds.

The above is in violation of Section 10(2) and (3) and Section 11(1), 1(A) and 1(B) of the Insurance Act, 1938 and IRDA (Preparation of Financial Statements and Auditor's Report of Insurance Companies) Regulations, 2002.



Submission by the Life Insurer

It is to submit that the Company was following a policy for rebalancing and transfer of funds between Non-linked and Shareholders funds' on monthly basis to ensure that policyholders' actuarial liability is sufficiently backed by the investment assets under respective non-linked funds. As per the process followed by the Company, all transfers are done at the price prescribed under the IRDAI Regulations. As per the process, all investment income and other corporate actions are recognized in respective segregated non-linked funds. It is further to submit that computing daily transfers to non-linked funds after incorporating elements such as premium income, operating expenses, claims and mathematical reserves, would involve large approximations and lead to significant under/over funding in each line of business and hence not operationally viable. Further, once the investments are transferred to Policyholders funds, the same cannot be clawed back to Shareholders account except in case of surplus transfers as prescribed by the Authority.

However, it is to confirm that the process has been enhanced wherein, in addition to the process of transfer of funds between Non-Linked and Shareholders funds on monthly basis, the Company also had in place a process to fund the participating policyholders account intra month based on estimated premium, reserves, expenses and claims. Accordingly the participating policyholders' accounts have maintained a significant surplus asset position vis-a-vis liabilities (including current liabilities such as unallocated premium) at most times. This can be seen from the net pre-funding surplus/deficit position for the participating funds at each month from January, 2016 to December, 2016 (data submitted).

Further, during the current financial year, the Company has enhanced the process further whereby the net of policyholders' account daily inflows and daily outflows are invested in respective segregated funds on daily basis. Documentary evidence in support of the same is submitted to the Authority.

Decision

It shall be noted that based on product mentioned by the proposer in the proposal form, fund type may be ascertained and thus may be considered for investment under policyholders' a/c only instead of the practice followed by the Life Insurer. However, as the Life Insurer confirmed that as on date the process ensures that the daily inflows and outflows are invested in respective segregated funds on daily basis, no charges are being pressed.

Charge No.6

Lease agreement relating to renting of premises to Bajaj Allianz Financial Distributors Ltd, revealed that the Life Insurer is earning rental income from the rented part of a building. However, the Life Insurer has classified it as a building (instead of showing it as investment property) and provided depreciation on the same and showed as a part of Schedule 10 of Financial statements as at 31st March, 2014.

Violation of Note (e) to Schedule 8B of Part I Schedule A of IRDA (Preparation of financial statements and auditor's report of insurance companies) Regulations, 2002.



Submissions by the Life Insurer

The property under consideration is the Head office of the Company. It is to confirm that the same has been acquired by the Company from shareholders funds, for use in services and administrative purposes and not for earning rental income or for capital appreciation and has accordingly been classified as a fixed asset. A very small proportion of the building (i.e. 2,516 square feet of the 73,006 square feet) which was lying vacant has been shared with Bajaj Allianz Financial Distributors Ltd (a related entity) for their administrative use. In order to however maintain arm's length with Bajaj Allianz Financial Distributors Ltd a fair market price has been charged which also ensures that a fair share of our costs are being recovered from them. Hence, even on this small proportion of the property there is no intent of the Company to earn revenue but the intent is to utilize space effectively in the interest of the Policyholders' as the space is now being utilized most effectively and the income from Bajaj Allianz Financial Distributors Ltd booked as other income in the Policyholders' Revenue Account. However, it is to confirm that subsequently the said portion has been reclassified as investment property based on Authority's guidance.

Decision

Considering the submissions of having reclassified the property as investment property, no charges are being pressed.

Charge No.7

Free Look cancellations were allowed beyond Free Look period (FLC) of 15 days. Further, under Free look cancellations, the Life Insurer is refunding entire or more than collected premiums on cancellation of policy contract.

Violation of Regulation 6 of IRDA (Protection of Policyholders' Interests) Regulations, 2002.

Submission by the Life Insurer

As per the policy terms and conditions as well as Regulation 6(2) of the IRDA (Protection of Policyholders' Interests) Regulations, 2002, a period of 15 days from the date of receipt of policy documents is allowed to a customer to review the terms and conditions of the policy and within this period the customer is entitled to return the policy stating the reasons for his objection. Since Insurance is a contract between the Insurance Company and the Life Assured, for reasons acceptable to both, the parties may choose to annul the contract at any time even beyond the prescribed period of 15 days. Company's understanding of the clause is that within the period of 15 days the policyholder can claim return of the policy as a matter of right for reasons of dis-satisfaction with the terms of policy to be specified, but beyond 15 days it is the discretion of the Insurance Company to accept or reject the proposal of policyholder for return of policy. The Company has chosen to exercise its discretion in a number of cases wherein it has come to a conclusion for free-look of the policy, in customer interest. While deciding the refund of premium the Company has adopted the same principles as laid down by the Authority, as regards for return of policy within 15 days of the date of receipt of policy bonds. However, it is to reiterate to the Authority that the action of free-look for an extended period has been taken in order to redress the grievance of the



customer, giving the customer the benefit of doubt considering that delivery of policy to the customer could not be established.

Refund amount in excess of premium received never occurred to the policyholders. In the observation made, difference between refund amount and annualised premium was considered instead of actual amount collected from the customer. Actual amount collected from customer in non-linked policy is more than annualized premium due to service tax collected over and above the premium amount, advance premium market movement in case of unit linked policies etc. Documentary support is furnished indicating refund amount to be lesser than collection amount in non-linked policies. Amount collected thus refunded post necessary deductions permissible under Regulation 6 of IRDAI (Protection of Policyholders' Interests) Regulations, 2002.

Decision

The interpretation of the Life Insurer that, "within the period of 15 days the policyholder can claim return of the policy as a matter of right for reasons of dissatisfaction with the terms of policy to be specified, but beyond 15 days it is the discretion of the Insurance Company to accept or reject the proposal of policyholder for return of policy" cannot be accepted as the Life Insurer is mandated to follow the terms and conditions post issuance of the policy. The provisions of Regulation referred herein, unequivocally indicate that such requests shall be entertained only within 15 days from the date of receipt of the policy at the policyholder. Had the Life Insurer placed necessary controls over despatch of policy bonds and dates of delivery at the policy holder, there would not have been any dependency on policyholders for the date of receipts and consequently redressing the grievances. Further due to the lack of such controls, there may be a scope for allowing ingenuine free look cancellations. Hence, the Life Insurer is directed to ensure necessary controls on despatch of policies and date of receipt of policy at the policyholders which is the basis for allowing genuine free look cancellations.

With regard to the second part of the charge that free look refund is more than collected amount, the submissions of the Life Insurer (along with documentary evidence) are considered and hence no charges are being pressed.

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	Considerable number of maturity claims was pending in violation of Regulation 8 of IRDAI (Protection of Policyholders Interests) Regulations, 2002.	Warning and direction
2	Mortality charges were not recovered upfront under Group Employee benefit product (Linked) in violation of ULIP Guidelines, 2005 and Clause 6 of Annexure II of Corporate Governance Guidelines, 2009	Warning
3	Advances given to Intermediaries were written off instead of recovering them.	Warning and Direction



	Violation of Authority's directions issued under order Ref: IRDA/ LIFE/ORD/ MISC/169/ 8/ 2013 to stop payments to corporate agents and brokers and Violation of Clause 21 of Corporate Agency Guidelines, 2005	
4	Individual agents were engaged as ADPs. Violation of Clause 8.5 of Outsourcing Guidelines, 2011.	Warning
5	Premiums received in respect of non-linked policies were pooled Shareholders' account instead of policyholders account. Violation of Section 10(2) and (3) and Section 11(1), 1(A) and 1(B) of the Insurance Act, 1938 and IRDA (Preparation of Financial Statements and Auditor's Report of Insurance Companies) Regulations, 2002.	Warning
6	Investment property classified as a building in financial statements. Violation of Note (e) to Schedule 8B of Part I Schedule A of IRDA (Preparation of financial statements and auditor's report of insurance companies) Regulations, 2002.	Dropped
7	Free Look cancellations were allowed beyond Free Look period (FLC) of 15 days. Further, under Free look cancellations, the Life Insurer is refunding entire or more than collected premiums on cancellation of policy contract. Violation of Regulation 6 of IRDA (Protection of Policyholders' Interests) Regulations, 2002.	First part – Direction Second Part - Dropped

Conclusion

- i) The Life Insurer shall confirm compliance in respect of all the directions referred to in this Order, within 21 days from the date of issuance of this order. Timelines, if any as applicable shall also be communicated to the Authority.
- ii) The Order shall be placed before the Audit committee of the Life Insurer and also in the next immediate Board meeting and to provide a copy of the minutes of the discussion.
- iv) If the Life Insurer 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.

Place: Hyderabad

Date: 24th April, 2017

(V R Iyer)

Member (F&I)