Ref.No: IRDA/ENF/ORD/ONS/ 221 /12 /2015

Final Order in the matter of M/s Chola MS General Insurance Company Limited

Based on reply to the Show Cause Notice dated 29th May, 2015 and submissions made during Personal Hearing on 11th September, 2015 at 11:00 am taken by Member (F&I) at the office of Insurance Regulatory and Development Authority of India , 3rd Floor, Parishrama Bhavanam, Basheerbagh, Hyderabad.

The Insurance Regulatory and Development Authority of India (hereinafter referred to as "the Authority") carried out an onsite inspection of M/s **Chola MS General Insurance CO Limited** (hereinafter referred to as "the General Insurer") from 6th to 10th December, 2010. The Authority forwarded the copy of the Inspection Report to the Insurer seeking comments on the same under the cover letter dated 7th March, 2011. Upon examining the submissions made by the Insurer vide letter dated 24th March, 2011 the Authority issued Show Cause Notice on 29th May, 2015 which was responded to by the Insurer vide letter dated 29th May, 2015. As requested therein, a personal hearing was given to the Insurer on 11th September, 2015. Mr. S.S.Gopalarathnam, MD, Mr.Vedanarayan Seshadri, Chief Marketing Officer, Mr.Suresh Krishnan, Company Secretary & Chief Compliance Officer and Mr.S.K.Rangaswamy, Chief Finance Officer were present in the hearing on behalf of the General Insurer. On behalf of the Authority, Mrs.V.R.Iyer, Member (F&I), Mr.Lalit Kumar, FA & HOD (Enforcement), Mr.Suresh Mathur, Sr.JD (Non-life), Mr.Prabhat Kumar Maiti, JD (Enforcement) and Mr. K.Sridhar, Sr.AD (Enforcement) were present during the personal hearing.

The submissions made by the 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 issues raised in the Show Cause Notice and the decisions thereon are detailed below.

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1. **Charge – 1**

The insurer has entered into referral agreements with more than 3800 referrals during 2009-10 and their number on the date of inspection was 1836. The note given by the insurer in this regard says that the motor dealer referral will sell the insurance and compensation is offered on the basis of premium realized. The note also explains that the individual referrals are actually agents of another insurer and the code no is allotted in the name of the family member. It is observed from the list of referrals and referral note that the insurer has entered into agreement with many individuals who are prospective agents or existing agents of other insurers

Even after issuing clear cut directions on referral arrangements by the Authority, the insurer is continuing with the past unauthorized tie-ups and justifying that he is slowly absorbing them as agents after passing of agency exam. The insurer is procuring the business from referral entities under the guise of referral arrangement and picturing it as training to a prospective agent is an abnormality.

Violation of

a) Authority referral circular no. IRDA/Cir/003/2003 dated 30th January, 2003 and circular ref.no.IRDA/Life/Cir/Misc/110/07/2010 dated 12th July, 2010.
b) IRDA circular ref. IRDA/Cir/011/2003, dated 27.03.2003
c) Regulation 6, 11(1, 13 & 14) & 12(c) of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010 read with Circular: No. IRDA/Life/Misc./Cir /125/08/2010, dated 5-8-2010 & No. IRDA/Life/Cir/Misc/126/08/ 2010, dated 9-8-2010.

Submission of the insurer:

As pointed out by the Authority the number of referral agreements which were more than 3800 during 2009-10 has been reduced to 1835 by December 2010. This reduction is in view of the IRDA (Sharing of Database for distribution of Insurance Products) Regulations, 2010 which was notified by the Authority on 1st July 2010. The immediate termination of the business relationship with these entities /persons where the relationship has been built over a period of years is a challenge to the company as it has an adverse impact on the business of the company as well as the relationship with these entities. Hence, in order to meet the regulatory as well as the business requirements, the company is in the process of converting the existing referrals into licensed agents.

As mentioned in our earlier reply dated March 24, 2011, due to sheer enormity of the task of cancelling early 3800+ referral agreements, we could not complete terminating all the agreements in a short period. However the company has terminated all referral arrangements and confirms that post December 31, 2011 no referral arrangement exists.

Decision:

The general insurer has preferred not to report to the inspection observation on individual referrals who are also agents of other insurers.

Insurer entered into referral agreements with motor dealers, prospective agents and tied agents of other insurers including of life insurers for soliciting business, whereas Authority allowed insurers to enter into referral arrangement only with banks registered under RBI.

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 arrangement after modifications or otherwise.

Only after inspection observation, insurer sought relaxation of time to discontinue all the arrangements in its reply to the inspection observation on 24th March, 2011.

Insurer by continuing the referral arrangements even after issue of IRDAI (Sharing of Database) Regulations 2010 has violated the Regulation. The Authority in exercise of the powers vested under Section 102(b) of the Insurance Act imposes a penalty of Rs.5 Lakh.

2. **Charge – 2**

Insurer has entered into agreement with M/s. Indusind Bank Ltd (IBL), Corporate Agent, on 06/11/2008 for the period of five years on 14/11/2008. The insurer paid an amount of Rs.23.59 crores towards fee for access to customer database and

infrastructure expenses. Further, insurer is paying higher commission to IBL than agreed under Annexure to point no. 9 of the agreement. Details of payouts to IBL and other entities for the year 2009-10 are as under:

(In lakhs)

Bank	Premium	Payout
Indus Ind Bank Ltd	18,379	3,562
Anand Mercantile Co-op Bank ltd	12	1.8
M/s Cholamandalam Distribution Services Limited (CDSL)	1.58	.34

Violation of

a) Section 40 A (3) of Insurance Act, 1938.
b) Clause 21 of the corporate agent guidelines circular ref.no.017/IRDA/circular/CA guidelines/2005 dated 14-07-2005.
c) Authority's Circular No. 011/IRDA/Brok-Comm/Aug.-08, dated 25/08/2008 & Para X of the Authority referral circular ref.no.IRDA/Cir/003/2003 dated 30th January, 2003.

Submission of the insurer:

The payments made to Indusind Bank Ltd (IBL) have been disclosed vide the banassurance returns filed with the authority from time to time. The Authority had, for this particular violation, earlier levied penalty on our Company and Indusind Bank Limited (IBL) under Section 40A (3) of the Insurance Act, 1938. The Company after the receipt of the aforesaid order has not made any payment to IBL in violation of the above mentioned section except one payment of Rs.64.11 lakhs during March, 2012 which pertained to the period prior to August, 2011. In view of the above facts, we would request the authority to drop this observation.

Decision:

It is noted that a penalty of Rs.10 lakh has been imposed by Authority on insurer vide Order dated 31/08/2011 for additional payouts during the FY's 2007-08 and 2008-09. Though payments were made by insurer during FY 2009-10, insurer confirmed no payout was made after the Authority Order dated 31/08/2011 except Rs.64.11 lakhs which pertains to the period prior to the issue of the Authority Order. **In view of the submissions of the insurer on not making any further payments after the Order of the Authority, no charge is pressed.**

In respect of additional payouts to M/s Anand Mercantile Co-op Bank Ltd, it is noted that the payouts are very small; as such no charge is pressed. In respect of payouts to M/s Chola Distribution Services Ltd, insurer confirmed that no payment other than commission was paid during FY 2009-10 and 2010-11.

Insurer is hereby advised to discontinue additional payouts to licensed entities in any form over and above commission and not to enter into additional relationships with licensed entities in compliance with Corporate Agents guidelines dated 14th July, 2005 and Outsourcing guidelines dated 1st February, 2011.

3. **Charge – 3**

It is observed that M/s Chola Insurance Services Pvt. Ltd, group entity of the insurer is the biggest service provider and an amount of Rs.30 crores was paid during 2009-10. Insurer note in this regard states that the major portion of the payment was against the manpower services utilized in the areas of policy issuance, MIS related work, Sales Support activities, Finance and Accounts, data entry in claims and underwriting etc. Further, Chola Insurance Services is also acting as corporate agent of the insurer.

Violation of

a) Para 8.5 read with para 9.12 & 19 of the guidelines of the outsourcing guidelines dated 1/2/2011.
b) Authority circular ref.no.IRDA/F&I/CIR/F&A/012/01/2010 dated 28th Jan, 2010 on 'Public disclosures by insurers' by not disclosing the payment information in the Public disclosure NL-31 form on 'Transactions with related parties'.
c) Clause 21 of Corporate Agents circular no.017/IRDA/Circular/CA guidelines/2005 dated 14-07-2005.

Submission of the insurer:

a) The Company had outsourced services, which is in line with the outsourcing guidelines dated February 1, 2011.
b) Chola Insurance Services Pvt. Ltd (CISPL) has been licensed to act as corporate agent of the Company only from December 2012. During the Financial year 2009-10, the Company had not procured any insurance business from CISPL as a corporate agent.

c) Even while applying for Corporate Agency license, the Company had disclosed to IRDA that CISPL is also a man power services organization vide its application dated August 31, 2012.

d) Public Disclosure in form NL 31 on Transactions with Related parties, are presented as per the Accounting Standard 18 (AS 18) issued by the ICAI. CISPL is not a related party and hence the same was not disclosed on "Public disclosures by insurers".

Decision:

a) Authority accepts insurer submission on related party disclosures compliance with Accounting Standard 18 of ICAI and no charge is pressed.

b) Insurer submission on outsourcing to corporate agent is not acceptable. Authority allowed outsourcing of non core activities to third party entities other than licensed entities. Clause 21 of corporate agent guidelines and para 8.4/5 read with 9.2 of outsourcing guidelines clearly indicate that an insurer cannot have an additional relationship with a corporate agent. Further insurer submission on prior intimation to Authority in the corporate agency application is also misleading. Though insurer informed that the main business of the prospective agent was to provide services to clients, it has no where informed to Authority on its existing relationship with the prospective agent.

Since, as per the referred guidelines, an insurer is not allowed to enter into additional relationships with a corporate agent, insurer is hereby directed to choose either to continue the corporate agency agreement or the Service agreement with M/s Chola Insurance Services Pvt. Ltd (CISPL). Insurer **is advised to furnish a road map to align their existing arrangements in compliance to the various guidelines in this regard.** Insurer decision in this regard is to be submitted to Authority within 3 months of issue of Order.

4. Charge – 4

On examination of the Internal/Technical Audit Reports pertaining to few Operating Offices of the insurer for the year 2009-10, it is observed that higher discounts in Premium in excess of the maximum discount filed are allowed under motor, engineering and travel policies.

Violation of Para 2, 3 (ix), 11, 26 & 28 of F&U circular no. 021/IRDA/F&U/SEP-06, dated 28/09/2006.

Submission of the insurer:
Due to acute competition in the market and in order to retain certain good customers, the company is compelled to consider higher discounts in certain individual risks deserving merits. Such deviations are far and few and they are being monitored on a monthly basis.

Decision:
The company has deviated from the rating structure approved by the Authority under F&U guidelines. Insurers are directed through F&U guidelines to ensure that competition will not lead to unprincipled rate cutting and other improper underwriting practices. Furthers, insurers are not allowed to offer terms, conditions and rating different from the one filed with and approved by the Authority.

In view of the violation of F&U guidelines, the Authority in exercise of the powers vested under Section 102(b) of the Insurance Act imposes a penalty of Rs.5 Lakh.

5. **Charge – 5**
The insurer has not filed the Health Policy named 'HEALTH TOP-UP' under File and Use procedure of the Authority.

Violation of para 11 & 28 of F&U guidelines dated 28/09/2006.

Submission of the insurer:
These policies were issued as per terms of standard individual policies, only to those who were covered under Group Health Policies issued by the company. The employer bears for the basic sum insured and the employees need to pay for additional cover above it.

We have not made any changes to the terms applicable for individual policies except that policy was made operational only after the Group Health Policy Sum Insured is exhausted. Further, we would like to clarify that we have only sold 111 policies and have dis-continued issuance of such policies now. We subsequently filed with IRDA regular "Top Up" product for the retail business.

Decision:

Authority notes that insurer discontinued marketing the product after sale of 111 policies and afterwards took approval from Authority under F&U guidelines on 18/05/2011. Authority takes note of the submission and insurer is advised not to market any product henceforth without prior approval from Authority and to ensure compliance to File & Use guidelines issued by Authority from time to time.

6. **Charge – 6**

a) System controls are not in place to ensure the compliance of Sec.64- VB, more so in respect of Travel policies.

b) From the copies of insurer e-mails exchanged with a broker, it is observed that the insurer has received the premium on 28-08-2010 only, when the risk commencement date is 01-08-2009.

Violation of Section 64VB of Insurance Act, 1938.

Submission of the insurer:

a) The company has adequate system controls. However, in respect of travel policies, where the policies are being issued at the Agent's offices, the policy is issued by the Company through the portal at the Agent's office. All policies are issued only against the receipt of premium. In certain cases pertaining to travel insurance, there was a minor time lag between the issuance of policy and receipt of premium.

b) This is a marine hull risk. In this risk the premium for the year 2009-10 was initially wrongly credited to a different account which was corrected later. However the funds have been received by us to the correct account on 29.08.09 and not on 28.08.2010 as stated in the report. Moreover we have bound the risk only from the initial remittance date of 15.08.09, after obtaining a letter of No Known or Reported Losses.

Decision:

Insurer accepted that in respect of travel policies premium was not received before commencement of risk.

Further, on the marine hull risk, insurer has also not provided any documentary evidence of receiving the marine risk premium on 15/08/2009 for the risk commenced on 01-08-2009.

In view of the violation of Section 64VB of Insurance Act, the Authority in exercise of powers conferred under Section 102(b) of Insurance Act imposes a penalty of Rs.5 lakh.

7. **Charge – 7**

The insurer has paid commission to the master policy holder M/S. South Indian Bank.

Violation of Point C-4 of Authority Group guidelines circular ref.no.015/IRDA/ Life/Circular/GI Guidelines/2005 dated 14-07-2005.

Submission of the insurer:

The group organizer, South Indian Bank, has been paid to meet its administrative expenses incurred by it for distribution of health insurance in the market. After the receipt of inspection report, no further payments have been made to South Indian Bank. In confirmation of submission, insurer submitted copy of the recovery pertaining to the payments made during the period April – June 2011 and also confirmed that no such payments have been made to other master policyholders and the practice has been discontinued.

Decision:

It is noted that insurer has discontinued the practice after clarification from Authority on group insurance guidelines issued vide circular dated 4th Jan, 2011 effective from 1st April, 2011. Taking note of the submissions, no charge is pressed.

8. **Charge – 8**

A special contingency policy no. MO – 4411 was issued covering the risks of Transit, Regular and Interim Storage, Terrorism, Motor Trade Plate. In the regard following issues were observed:

a. Third party (TP) liability cover premium included in Motor Trade Risk premium is not transferred to Motor TP Pool a/c.
b. No specific Product said to have been filed with the Authority as required under File & Use procedure.
c. The premium of 1,38,61,786/- collected under the policy was accounted under Social Sector which is incorrect.

Violation of

i) Para 11 & 28 of F&U guidelines dated 28/09/2006.
ii) IRDA circular dated 04/12/2006 and Motor TP agreement dated 8/3/07.
iii) Violation of provision 3 (b) of IRDAI (Obligations of insurers to Rural or Social Sectors) Regulations, 2002.

Submission of the insurer:

This is a special contingency tailor made policy only one of its kind issued by us, combining the risks of Marine/ Motor/ Fire and liability coverage and not a regular motor policy. Being a Reinsurance driven policy, the entire risk was supported by Reinsurers including the Third Party portion.

Since this is not a retail product sold in the market the same has not been filed with the authority. While the policy was inadvertently booked under social sector, the same was not considered for calculating the premium towards meeting the Rural & Social Sector Obligations.

Decision:

Insurer submission with documentary evidence on not considering the premium for Social sector obligation is accepted.

Insurer by issuing a special contingency policy without filing and taking approval from Authority has violated the F&U guidelines.

Inspite of Authority directions at para 19,25, & 26 of File & Use guidelines dated 28th September, 2006 wherein all general insurers being directed not to market any product without complying with the requirements of the referred guidelines, insurer is of the opinion that only retail products need to be filed with Authority for approval. **In view of the violation of F&U guidelines, the Authority in exercise of**

powers conferred under Section 102(b) of Insurance Act, imposes a penalty of Rs.5 lakh and advises insurer to ensure compliance to F&U guidelines issued by Authority from time to time.

9. **Charge - 9**

Agreements entered with two of the vehicle manufacturers M/s. Hyundai Motor India Ltd. (HMIL) and M/s.Toyota Kirloskar Motor Pvt. Ltd. (TKM) for marketing of motor insurance business was examined. It was observed that out of 78 dealers, only two dealers are licensed agents and the remaining dealers are placing the business with the insurer under market agreements entered individually with them. The commission / payouts made to these dealers are ranging between 10% to 27% of the OD premium. The said payouts, includes Commission, Market Spend, Incentive to employees of dealer and price incentive and the same payout practices are followed for all lines of business.

As per agreement entered into with M/s. Hyundai Motor India Ltd. (HMIL) dated 26/02/2007, insurer is paying to HMIL 4% of GWP. It is pertinent to note that the payout was done on procured motor insurance business on GWP basis, i.e. both on Own Damage and Liability Section of motor policies.

Violation of

a) IRDA/Cir/011/2003, dated 27.03.2003.
b) IRDA commission payout circular dated 25/08/2008 and provisions of Insurance Act, 1938.
c) Violation of provision 11(14) of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010 by not cancelling the agreements.

Submission of the insurer:

We had tie-ups with Hyundai Motors (HMIL) and Toyota Motors. In the tie-ups, we had to pay brokerage to brokers, reimbursement of expenses for out sourced activities like e-policies etc. to dealers and brand spends for OEM's. Both Toyota Kirloskar Motors and Hyundai Motors India Limited have tied up with other insurers and operate on similar terms. We would like to clarify that our payment to HMIL is only on the Own damage portion of Motor Insurance premium and we have not paid anything for liability section of motor policy. All auto OEM's in India usually facilitate the Insurance market where OEM/Broker/Dealer /Insurers come together and arrange Insurance services to buyers of vehicles at the time of purchase of

vehicles. It is also submitted that the agreement of Hyundai Motor was not renewed after Feb, 2010 and of Toyota after October, 2012.

Decision:

On examining the agreements and other available documents on insurer tie ups with Hyundai Motor & Toyota, it is noticed that

- Insurer was allowed to use the database for marketing their motor insurance products and continued the agreements even after issuing of IRDA (Sharing of Database for distribution of insurance products) Regulations, 2010.
- Insurer agreed to reimburse costs upto 8% for any special efforts undertaken by Hyundai which may result in improved loss ratio and payouts under agreements were in the range of 8% to 28%.
- Insurer allowed additional payout upto 11% over and above commission to agent and was procuring business with tied agent of other general insurer.

Insurer being penalized for violation of the provisions of Sharing of Database Regulations at charge 1 of the Order, no further penalty is recommended on the agreements by insurer.

However, on additional payout to licensed entity with agency code AG001836 and on entering into marketing agreement with tied agent of another insurer under code LL003685, only one sample case being noticed in both the aspects, **no charge is pressed.** Insurer is directed to review its outsourcing agreements to ensure compliance with outsourcing guidelines and to stop soliciting business through tied agents of other general insurers and making additional payouts over and above commission to licensed entities.

10. **Charge – 10**

Insurer is offering an add-on cover to motor insurance with a brand name "Chola Protect 360". The insurer in the same cover "Chola Protect 360" is offering an add-on cover named "Chola Assistance for Roadside Emergencies" without approval and plans under the cover are mentioned as "CARE-Standard" and "CARE-Executive".

It was informed by the insurer that the amount collected for this cover was accounted as 'other income' in respective revenue account. For servicing "Chola Assistance for Roadside Emergencies" benefit, insurer has entered into agreement with M/s. India Roadside Assistance Pvt. Ltd.

Violation of Regulation 7 (1 - f & p) of IRDA (Protection of Policyholders' Interests) Regulations,2002, point 1 of Circular No. 19/IRDA/NL/F&U/Oct.-08, dated 6-11-2008 and point 2,11,26 & 28 of F&U guidelines dated 28/09/2006.

Submission of Insurer:

Chola Assistance for Roadside Emergencies is not an add-on cover but only facilitation for providing services to customer and amount collected for such services is not accounted as premium by us. The company had filed for "Road side assistance" as an "add on" cover in December 2008 and was informed by the Authority that it was not in the nature of insurance. Accordingly the company only facilitated the insured to avail road side assistance through a third party service provider. We further inform that, customer has the option to choose the plan in proposal form, information is provided in policy schedule under section E 'Other Service Charges (Non Premium)' along with name of the plan opted for by the insured. However in the submissions after personal hearing, insurer submitted that the charge towards facilitation cover was included in the premium amount only.

Decision:

a) The company has filed 'Road side assistance' as an add-on cover on 19/12/2008 and in a subsequent communication to Authority on 20th Feb, 2009, it informed on dropping its idea of seeking approval, but has not informed that it was not considering it as an add-on cover but only as a additional facility for which approval of Regulator was not required. Authority vide circular dated 6th November, 2008 allowed relaxations to the terms and conditions of coverages of erstwhile tariff classes and after that approval for 'road side assistance' cover in motor products has been given to many general insurers under F&U guidelines. As such, insurer submission of dropping the idea of seeking approval for proposed cover under F&U guidelines only after Authority verbal communication is incorrect.

   Thus insurer has violated F&U guidelines by not seeking prior approval from Authority under F&U guidelines. Since, insurer being penalized for violating F&U guidelines at charge 4 & 8 of the Order and warned at charge 5 of the order, no further penalty is imposed. However, insurer is advised to seek fresh approval from Authority under F&U guidelines.

b) In the sample policy schedules available, add-on cover wise premium was not shown separately and the charge towards 'Road side assistance' was also included in the total premium. The policy schedule only mentioned that the OD premium charged was inclusive of add-on cover premium. Insurer has not provided sample policy wordings copy to examine the details provided to the insured on the facilitation cover.

Though, insurer offered four optional variants on the facilitation cover in its proposal form, the policy schedule was silent on the type of facilitation cover opted/offered.

Insurer by not disclosing the information of add-on covers and premium bifurcation towards base cover/optional opted add-on covers in the policy schedule has violated the **provisions of IRDA (Protection of Policyholders' Interests) Regulations, 2002.** The **Authority in exercise of powers conferred under Section 102(b) of Insurance Act, imposes a penalty of Rs.5 lakh for violation**

11. **Charge - 11**

On examination of claim file (08-09/WM/0204, 08-09/WM/0200), it was noted that the policy was cancelled by the insurer on account of high claim experience.

Violation of Regulation 7(n) of IRDA (Protection of Policyholders' Regulations) 2002

Submission of Insurer:

The Claim repudiation and mid term policy cancellation is due to breach of warranty that 'there should be CCTV in all the shops". Since the CCTV at the loss location was not operational and insured could not provide the CCTV footage, this claim was rejected. In support of submission, insurer provided copy of policy schedule after the personal hearing which warrants that 'there should be CCTV in all the shops & 24 hour watch & ward for premises'.

Decision:

Authority takes note of the submissions of insurer and no charge is pressed.

12. **Charge – 12**

An amount of Rs.26.04 crores under 'other assets' is shown as 'dues from other entities' carrying on insurance business towards Re-Insurance and Co-Insurance dues. The insurer couldn't produce any confirmation from the respective counterparties in this regard. Out of the total co-insurance dues of Rs. 8.41 crores, only an amount of 1 crore was disallowed for Solvency calculation, though an amount of 5.34 crores was due for more than 90 days. The entire amount of reinsurance dues of Rs.17.63 crores was taken for Solvency calculation as the amount is claimed to be 'due for a period below 90 days'. After examining the re-insurance dues statement, it clearly establishes that there should be amounts pending for more than 90 days and hence the statement provided by the insurer is incorrect.

The re-insurance department of the insurer is not aware of the aging of these balances. The accounts department doesn't have any specific software for re-insurance accounting and the statement is prepared using 'excel'.

Violation of Regulation 2(1) (h) of IRDA ((Assets, Liabilities and Solvency Margins of Insurers) Regulations, 2000 and point 1 of circular**:** *No. 12/IRDA/F&A/CIR/May-09, dated 26-5-2009.*

Submission of insurer:

The Company has established a dedicated co-insurance/reinsurance team in Finance Department which primarily focuses on reconciliation and settlement of balances. The balances are reconciled on an ongoing basis, transactions are accounted /settled periodically and adequate systems are in place to ensure the reconciliation of RI receivables/payments. With the above processes in place, all co-insurance and reinsurance balances are dealt accordingly in terms of the regulations while considering the eligible assets for computation of solvency margin. In support of submission during personal hearing, insurer submitted copy of age-wise analysis of reinsurance receivables as at 31/03/2015.

The solvency margin as at March 31, 2010 was 1.76 times. As observed by IRDAI, even if Rs.5.34 crores is disallowed for solvency calculation, the solvency margin would be 1.73 times which is higher than the minimum threshold limit of 1.50 times.

Decision:

Authority takes note of the insurer submission on keeping systems in place, reconciling the balances and arriving to ageing of balances at regular intervals. Insurer is advised to ensure compliance to the Regulations and guidelines issued from time to time. No charge is pressed.

13. **Charge - 13**

Reinsurance Program filed for 2009-10 and actual placements made were verified. It was observed that the Insurer has been placing the reinsurance business in excess of 10% with its joint venture foreign partner M/s Mitsui Sumitomo. During 2009-10 (2008-09) the insurer has placed **83.93%** (76.63%) of reinsurance premium ceded outside India at company level with its foreign JV partner. Prior to placement of reinsurance business in excess of 10%, the insurer has never obtained the specific approval from the Authority.

Violation of Regulation 3(9) of IRDA (GI-Reinsurance) Regulations, 2000.

Submission of Insurer:

Insurer submitted that its Board has mandated the management to look for A rated securities and many of the A rated securities who are very limited in the international market expect the pro-rate treaties to carry event limit or cession limit. This further compounded by the poor pricing of original risks due to acute competition. As such the foreign re-insurers are not accepting the proportional reinsurance business and hence resorted to place business with its foreign partner. The Company had written to IRDA vide letter dated April 15, 2010 stating the factors forcing it to rely on few reinsurers including our joint venture partner, Mitsui Sumitomo Insurance Company Limited. This has resulted in placing 83.93% of the reinsurance premium ceded outside India with MSI working to 25% on the overall RI ceded. Insurer further submitted during personal hearing that the cessions to MSI have been gradually reducing year after year i.e from 68.20% during 2010-11 to 27.34% during 2014-15 and GIC is the lead reinsurer in all its treaties. We would like to confirm that all placements with MSI have been done at arm's length.

Decision:

As stipulated in the Regulation, the company has neither sought prior approval of the Authority nor referred to the specialized insurance with reference to which relaxation was sought. Ceding to reinsurers outside India beyond the permitted limits without prior approval from Authority for years together is a grave non compliance to the Regulation.

However, Authority notes that the company gradually brought down the total cessions to MSI out of the total cessions outside India from 83% in 2009-10 to 27% during 2014-15.

The Authority notes the above with concern and directs the insurer to scrupulously comply with Regulatory provisions henceforth. The Authority directs the insurer to ensure that prior written approvals of the Authority are taken wherever required.

14. **Charge - 14**

A random verification of securities held on different dates in the insurer's system revealed that the insurer had breached the investment limits of Central Government and other approved Securities (≥30%) and the same was not brought to the notice of the Authority. G Sec. Investment position of combined fund is 29.97% as on 31-10-2010 and 29.84% as on 30-11-2010. Insurer explained these breaches are due to parking of money in short term investments (for liquidity) rather than in Government Securities to facilitate the remittance to Pool Manager (GIC) as and when asked.

Violation of Regulation 4(1) of IRDA (Investment) Regulations 2000.

Submission of insurer:

The financial year 2009-10 was a transitional period where member companies received funds from the Motor Pool in proportion to their respective share in the Motor Pool. The marginal deviation was only due to investing the funds received from the Motor Pool in short term funds to facilitate the remittance to the Pool Manager [GIC] as and when advised by GIC.

System controls are currently in place to ensure compliance with Investment Regulations at all times. Further, insurer submitted that the credence software used by the company generates alerts whenever any prescribed investment limits are breached.

Decision:

The insurer should have immediately reported to the Authority on identifying the breach of prescribed limits. Authority while taking note of the insurer's submission, directs insurer to have proper control mechanisms to ensure immediate reporting to the Authority in case of any such breach.

15. **Charge - 15**

There is no clear cut separation of duties in the investment department of the insurer. There is no log available for the entry/alterations of the limits made on their investment software (credence). It is observed that the threshold limits can be easily breached by simply changing the restrictions in the system.

To verify the insurer system controls a sample sale deal of a government security worth 10 crores was entered and was allowed thereby breaching the mandatory limits. This indicates the inadequate system controls in place, in violation of Authority's investment guidelines 2008.

Violation of point A (1) & B (2) of Annexure III of IRDA (Investment) Regulations, 2008.

Submission of insurer:

The investment and accounting activities are segregated. The investment accounting software was installed in 2009-10 and the prescribed limits was not fully operational in the system, thereby allowing the sample deal to be executed resulting in the breach of limits. However, the software has since been stabilized and there are system built controls/limits to ensure compliance with the Investment guidelines of IRDA.

Decision:

The Authority takes note of the insurer's submissions and **no charges are being pressed**. However insurer is advised to have an effective control mechanism to comply with applicable Regulations and guidelines of the Authority.

16. **Charge - 16**

The insurer has relocated and closed some of their branches during 2009-10. It has been observed that in some of the closed branches not even a single policy was issued. Also insurer has not followed the procedure mentioned in the Circular No: 041/IRDA/BOO/Dec-06, which stipulates that a minimum notice of 2 months on the proposed relocation should be given to the policyholder serviced under that branch along with the alternate arrangements, in case of branches where policies were issued.

Violation of Sec.64VC of IA, 1938 and circular no:041/IRDA/BOO/Dec-06 dated 28/12/2006.

Submission of insurer:

As part of the continuous review towards optimizing productivity and controlling expenses of management, the company merged branches in some cities besides closing non-viable branches after a careful study. In such cases, the policyholders have been informed through the intermediaries besides issuing local newspaper advertisements on alternate location and contact details.

The company would like to state that post the Authority's observations on branch closure/relocation, there is process in place to ensure compliance with regulations pertaining to branch opening, relocation and closure.

Decision:

It is observed that out of 14 offices closed by insurer during 2009-10 & 2010-11, in respect of 7 offices there was a delay in giving information to Authority and with respect to other 7 offices, Authority was not provided any information.

However, taking note of the insurer submission that post inspection observation the company has placed a process to ensure compliance with the Regulations on closure/relocation/opening of offices, no charge is pressed.

In conclusion, as directed under the respective charges, the penalty of Rs.25 lakh (Rupees Twenty 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.Lalit Kumar, FA & HOD-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.

Place: Hyderabad
Date: 16/12/2015

(V R IYER)
Member (F&I)