



Ref. IRDA/ENF/MISC/ONS/053/03/2016

Final Order in the matter of M/s. Exide Life Insurance Company Limited
(Formerly ING Vysya Life Insurance Company Limited)

Based on reply to Show Cause Notice dated 30th November, 2015 and submissions made during Personal Hearing chaired by Mrs. V.R.Iyer, Member (F&I), Insurance Regulatory and Development Authority of India (IRDAI) on 15th February, 2016 at 11:00AM 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. Exide Life Insurance Company Limited, Formerly known as ING Vysya Life Insurance Company Limited (hereinafter referred to as "the Life Insurer/Company") from 8th October, 2012 to 17th October, 2012. A copy of the report was forwarded to the Life Insurer on 30th May, 2013 and the reply was received at the Authority vide letter dated 24th June, 2013. Post scrutiny of the first compliance, the Authority had raised further queries vide email dated 22nd July, 2014 and 21st July, 2015 which was responded to by the Life Insurer vide email dated 1st August, 2014 and 5th August, 2015 respectively. A meeting was also held on 6th August, 2015 with Life Insurer's officials to discuss on the observations of the inspection report to have more clarity. On examining the submissions made (in all above referred letters, emails and meeting) by the Life Insurer to the inspection observations, it is observed that the Life Insurer has not complied with the applicable provisions of the Insurance Act, 1938, IRDA's Regulations, guidelines framed there under. A show cause notice was issued vide letter dated 28th October, 2015 which was responded to by the Life Insurer on 30th November, 2015. As requested by the Life Insurer, in his reply to Show Cause notice, a personal hearing was also held on 15th February, 2016 to hear out the submissions of the Life Insurer in person. Mr. Kshitij Jain, MD & CEO, Mr. Rangarajan BN, CRO & Appointed Actuary, Mr. C. Anil Kumar, CFO and Mr. Ankur Chadha, Compliance Officer were present on behalf of the Life Insurer. On behalf of the Authority, Mr. Lalit Kumar, FA & HoD (Enforcement), Mr. V. Jayanth Kumar, JD (Life), Mr. Prabhat Kumar Maiti, JD (Enforcement) and Mr. K. Sridhar Rao, Sr. Assistant Director (Enforcement) were present in the personal hearing.

The submissions made by the Life Insurer in their written reply to Show Cause Notice as also those made during the course of the personal hearing were taken into account.

The findings on the explanations offered by the Life Insurer to the following charges and the decisions are as follows.

Charge No.1

Claims were repudiated on the grounds of non-disclosures in Declaration of Health (DoH) form at the time of revival. However, as per revival underwriting guidelines, no Declaration of Good Health is required.

Violation of File and Use Guidelines.

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Submission by the Life Insurer

The Life Insurer submitted that, as per the underwriting guidelines laid out by the Company, Declaration of Health is not required for cases issued at standard rates which are revived within 6 months from the day of lapse and in case of medically rated up contracts the said declaration is not required for revival within 3 months and confirmed that the company has been scrupulously following this principle and DoH is not insisted upon if it is not required. However, on some rare occasions, few of the customers have voluntarily submitted DoH along with documents for revival of the policy. Such instances are very few i.e., out of five lakh cases of revival in last four financial years where DoH was not required, there have been only nine instances where DoH was voluntarily submitted by the customers. Further on detailed review of data of repudiated claims for last four years, there were only 5 such cases where one of the reasons for repudiation was non-disclosure of material fact in DoH. In the cases referred by the Authority, the Life Assured had requested for revival of policy after contacting a terminal disease with a clear intent of defrauding the company by submitting a false declaration.

The Life Insurer further submitted that though the DoH is not required as per underwriting policy of the Company in the specific cases referred by the Authority, there was no restriction on the Company to rely on additional documentation submitted by the policy holder during the course of the contract which is based on "Uberrima fides".

Decision

It shall be noted that where DoH is not required as per the terms and conditions of the policy, the statutory norm of Section 45 of the Insurance Act, 1938 may be a ground to repudiate but not the DoH. Hence the repudiation decision, on the basis of DoH in such case, is a gross violation of terms and conditions (File & Use) of the respective policies. Hence as per the powers vested on the Authority vide Section 102(b) of Insurance Act, 1938 a penalty of Rs.5, 00,000 (Rupees five lakhs only) is levied on the Life Insurer. Further the Life Insurer is advised to re-examine such cases to ensure that no genuine claim has been repudiated.

Charge No.2

- a) Risk commenced before receipt of premium for the same under group policy issued.
- b) The insurer had offered Unit Linked Group Gratuity Scheme to various master policyholders, and addition of members was done during the years 2010-11 and 2011-12. The insurer had not collected risk charges, as and when members were added, but for showing the amount as receivable (net of premiums refundable for deleted members).
- c) On scrutiny of death claims under Group policy it is found that the risks cover commenced before receipt of premium.

The above is in violation of the provisions of Para A-4 of Authority's Group Guidelines, 2005 and Section 64VB (1) of Insurance Act, 1938.



Submission by the Life Insurer

a) *In reference to the cases examined by the Authority, the documentation and quotation process had been completed in January 2009; however the negotiations and final closure could be reached in March 2009. The Policies were issued on the basis of the original understanding and erroneously the date on the polices reflected the same.*

b) *The policies examined are group gratuity policies, and life cover is a supplementary to the gratuity policy covering the future service liability. These two features cannot be distinguished based on the premium payment date. Further, in accordance with the discontinuance of premium provisions, the company has to provide the policyholder a period of five years from the date of first unpaid premium for revival of the policy during which period, the life insurance cover under the policy shall continue with the deduction of applicable charges. The company had the option to deduct the charges from the available fund, however on the basis of the commitment from the policyholder the premium was not deducted from the fund and premium was eventually received subsequently.*

c) *The policy in question was a continuing group policyholder since 2009 therefore the payments were made based on the continuing cover.*

Decision

Considering the submissions made, the Life Insurer is cautioned and directed to be vigilant in complying with the provisions of Guidelines and Act mentioned herein.

Charge No.3

Under the group product "ING Vysya Group Gratuity Plan (UIN 114L017V02). In the case of ING Life Insurance Group Gratuity Trust, besides waiving all the applicable charges, suicide clause was also waived from policy conditions.

The above is in violation of File and Use Guidelines.

Submission by the Life Insurer

ING Life being a corporate entity has its own gratuity scheme which is managed by the Company itself. As the policy holder and the insurer being the same legal entity, the charges were also waived, as it would tantamount to only a book entry and relaxations of charges were only limited to Company's own policy. Further the Life Insurer categorically confirmed that the suicide clause was not waived and the policy was operated in compliance with the scheme rules only.

Decision

Considering the submissions made, no charges are being pressed. However, the Life insurer is advised to continuously comply with the File and Use Guidelines.



Charge No.4

Death claims were settled in favour of Master Policyholders (MPH) under non-employer/employee group policies.

The above is in violation of Clause C-7 of Group Insurance Guidelines No.015 /IRDA/ Life/ Circular/GI Guidelines/2005 dated 14/07/2005.

Submissions by the Life Insurer

The group product referred by the Authority was designed specifically to cater to the unique requirements of micro finance members and debtor /creditor groups. The group wherein the MPH has advanced a loan and coverage is provided to secure the loan amount which may be lost due to any unforeseen incident that may affect the insured member. Hence in view of the design and purpose, the payments are made to the MPH in respect to this product. The Company has always ensured that rightful dues of claimants are credited to their respective accounts by the MPH through various control measures. Further the Life Insurer submitted correspondences with the Authority, wherein they had specifically requested the Authority under F&U application of Micro Insurance Product – ING Saral Suraksha to allow this practice in case of debtor-creditor groups.

The Life Insurer further submitted that they are re-looking at the process to ensure better compliance with the Group Guidelines and also the Product Regulations – 2013.

Concerns/Violations

The Life Insurer though made a specific request to the Authority to allow the practice of payment of claims in favour of MPH in case of debtor-credit groups under File and Use application of the said product, it shall be noted that the Authority has not given any clear-cut approval for the same. Hence the Life Insurer shall not resort to such practices without categorical approval from the Authority.

It shall also be noted that, the relevant guidelines clearly specify that the MPH shall only be a facilitator in claims settlement but the claim be paid in favour of beneficiary/member only. The Life Insurer has violated the provisions of the guidelines referred herein. Hence as per the powers vested on the Authority vide Section 102(b) of Insurance Act, 1938 a penalty of Rs.1,00,000 (Rupees One lakh only) is levied on the Life Insurer. Further the Life Insurer is advised to discontinue the practice and to follow the relevant Regulations/guidelines (with respect to claim settlements under Group Policies), issued by the Authority from time to time continuously.

Charge No.5

Business sourced by Corporate Agents revealed that

- a) Only few specified persons logged in business in huge numbers from different places.
- b) Huge number of proposals sourced from different places by a specified person (SP), but the signature of the specified person on different proposals is not the same.
- c) In case of one Corporate Agent, Chief Insurance Executive (CIE) only is operating in four places and good number of business was procured



- d) One Corporate Agent even does not have CIE or SP on its rolls but a good number of proposals were sourced
- e) Various contests were launched for Corporate Agents, but the employees of the corporate agents were rewarded with foreign trips who are other than specified persons.

Violation of a) Regulation 9(2)(ii) (a), (l) (m) of IRDA(Licensing of Corporate Agents) Regulations b) Clause 2,8,17 of Guidelines on Licensing of Corporate Agents, 2005 and c) IRDA Circular No. IRDA/CIR/010/2003 dated 27.03.2003.

Submissions by the Life Insurer

The adequacy of number of SPs soliciting insurance business on behalf of corporate agents has always been one of the primary focus areas of the Company. The issues pertaining to the quality and completeness of policy papers and mis-match of signature of SPs etc as observed by the Authority, were attended to on priority through process improvements, regular interventions with the partners and periodic training of SPs.

The Life Insurer further submitted that the Banc assurance model of soliciting business comprises of two stages. The bank staffs get leads or are approached by customers and these leads are referred to the SP of the said location who concludes the sale. In order to ensure that insurance knowledge, some amount of product knowledge is available and leads get generated for solicitation by the SP, foreign trips were organized earlier only for limited staff. The solicitation of business was invariably through the SP's associated with the bank. Based on the Authority's advice foreign trips for bank staffs have been discontinued after the financial year 2012-13.

The Life Insurer further submitted a copy of the document of Standard Operating Procedure (SOP) with regard to Corporate Agency business wherein they tried to establish that now the process has been strengthened to check and ensure that the Corporate Agents solicit business through qualified and licensed SPs only.

Decision

The observations made above indicate questionable sales practices by the Corporate Agents. The Life Insurer shall monitor all the activities of the Corporate Agents. On examination of observations viz., SPs signature mis-match, one corporate agent procuring business without a CIE or a single SP and sponsoring the employees of the Corporate Agents for foreign trips indicate that the Corporate Agent has made use of persons other than specified persons in the solicitation of insurance business thereby the Life Insurer has not ensured the compliance of the provisions of above Regulations and Circulars. Hence as per the powers vested on the Authority vide Section 102(b) of Insurance Act, 1938 a penalty of Rs.5,00,000 (Rupees Five lakhs only) is levied on the Life Insurer.

Further, the Life Insurer is hereby directed to ensure continuous compliance of Regulation 14 IRDAI (Registration of Corporate Agents) Regulations, 2015 and any other relevant regulatory prescriptions hereinafter.

Charge No.6 (6-4)

It is noticed that during any calendar month, the premiums received with respect to non-linked policies were transferred to shareholders' fund. At the end of each month, after receipt of actuarial liability requirements and in case of deficit, securities are transferred from shareholders' fund to respective policyholders' fund. Thus, any income derived on such premium receipts during any calendar month are credited to the shareholders' fund without any part of the same being allocated to policyholders.

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.

Submissions by the Life Insurer

The Life Insurer submitted that, for traditional products, funds are transferred regularly during the month to the respective funds based on the policy issuance data extracted from the policy administration system and using an estimate for reserve calculations. At month end the same are reconciled with the liability determined independently by actuary. This process ensures that the money collected from policy holders is credited to the respective funds regularly thereby optimizing return to the policy holders. Further the company fine tuned the process in the current financial year by creating a separate policy holder cash flow fund which addresses both inflow and outflow with respect to policy holder money. This ensures that the transfers of traditional funds are done regularly through the month thus ensuring that policyholder's funds are transferred and invested prudently and timely. The Life Insurer submitted a tabular presentation with regard to non-linked funds for the years 2011-12, 2014-15 and 2015-16 wherein they tried to establish that the transfers of traditional funds are done regularly through the month and the Life Insurer further submitted tabular presentations for the years 2014-15 and 2015-16 indicating that the transfers are being done regularly. The Life Insurer also submitted process note that is being practiced by them for determining the transfer of daily collections in ULIP and Non-ULIP Business into respective Investment Accounts.

Decision

Considering the submissions made, no charges are being pressed. However, the Life Insurer is advised to ensure that the investment account referred in the process note shall form part of Policyholders' fund (since the premium collections are belonging to policy holders) while ensuring timely transfer of funds from the account to respective policy holders funds.

Charge No.7

As per the Investment System (MFUND), the regulatory limits of investments in liquid mutual funds were monitored at Controlled fund instead of individual fund Level.

Violation of Para 5B (i) and 5B (ii) of Annexure II of IRDA's (Investments) (Fourth Amendment) Regulations, 2008



Submissions by the Life Insurer

The Life Insurer submitted that there is no requirement envisaged to report them separately since all these funds are part of Life Fund. Managing limits at the fund level is not expected as per extant regulations and hence they are managed at Life Fund Level. Further submitted that the exposure limits are managed at Life, Pension and ULIP Funds level only. The funds as mentioned in the inspection observation were product level and were created within the life fund for managing the interest rate risk and asset liability duration management purposes only. Further submitted that the total investment of the Life Fund in Mutual Funds was only 5% as on 31.03.2012.

Decision

Considering the submission that the funds mentioned in the observations are funds at product level only which forms part of total life fund and further confirmation that they are in compliance at the life fund level, no charges are being pressed.

Charge No.8

In case of ACE LIFE Fund which was a part of controlled fund, it was observed that the investments in Asset Backed Securities (ABS) have exceeded 10% of the fund.

The above is in violation of Para 6(2) of Annexure II of IRDA (Investment) (4th Amendment) Regulations, 2008.

Submission by the Life Insurer

The Life Insurer submitted that Ace Life Fund is not a separate fund and hence the limits are monitored at Life Fund Level. At the Life Fund level no limit were breached with regard to ABS holdings. Further the Life Insurer clarified that the exposure into ABS at an overall life fund basis was only at 0.92% as on 31.03.2012 and also apart from the said investment there was no additional exposure taken in ABS thereafter.

Decision

Considering the submissions of the Life Insurer that Ace Life Fund is not a separate fund and they are in compliance with investment exposure norms in case of Asset Backed Securities (ABS), no charges are being pressed.

Summary:

In conclusion, as directed under the respective charges, the penalty of Rs.11,00,000 (Rupees Eleven Lakhs only) shall be remitted by the Life Insurer by debiting shareholders' account within a period of 15 days from the date of receipt of this Order



through NEFT/ RTGS (details for which will be communicated separately). An intimation of remittance may be sent to Mr. Lalit Kumar, F.A. & HoD (Enforcement) at the Insurance Regulatory and Development Authority, 3rd Floor, Parishrama Bhavanam, Basheerbagh, Hyderabad-500 004.

Further

- a) The Life Insurer shall confirm compliance in respect of all the directions/advisories 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.
- b) 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.
- c) 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: 21st March, 2016



(V R Iyer)

Member (F&I)

