



बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY

Ref: IRDA/LIFE/ORD/MISC/062/02/2014

Final Order in the matter of

M/s. Tata AIA Life Insurance Company Limited

Based on Reply to Show Cause Notice Dated 18th November, 2013 and

Submissions made during Personal Hearing on 6th January, 2014 at 11:30 PM

Chaired by Sri Sudhin Roy Chowdhury, Member (Life), IRDA

**At the office of Insurance Regulatory and Development Authority, 3rd Floor,
Parishrama Bhavanam, Basheer Bagh, Hyderabad**

The Insurance Regulatory and Development Authority (hereinafter referred to as "the Authority") carried out an onsite inspection of one Branch office and Corporate Office of M/s. Tata AIA Life Insurance Company Limited (hereinafter referred to as "the Life Insurer") during May, 2013 to examine the procedures in place to comply with the Anti Money Laundering guidelines issued by the Authority. The Authority forwarded the copy of the Inspection Report to the Insurer vide letter dated 24th June, 2013 seeking comments. On examining the submissions made by the Life Insurer vide letter dated 5th July, 2013, the Authority has issued a Show Cause Notice on 18th November, 2013 which was responded to by the Life Insurer vide letter dated 28th November, 2013. As requested therein, a personal hearing was given to the Insurer on 6th January, 2014.

Mr. Suresh Mahalingam – Managing Director & CEO, Mr. S Mahesh – Sr. Vice President – Operations, Systems & Facilities, Mr. S Swaminathan – Chief Compliance Officer, Mr. Rakesh Chakraverty - Assistant Vice President Branch Control Assurance were present in the hearing on behalf of the Life Insurer. On behalf of the Authority, Dr Mamta Suri, JD (Sectoral Development Department), Mr V. Jayanth Kumar, JD (Life), Mr DVS Ramesh, DD (Life-Coordination), Ms.B.Padmaja, Sr.AD (SDD - AML&RI) and Mr K.Sridhar Rao, AD (Life-Regulatory Actions) were present in the personal hearing.

The submissions made by the 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 issues raised in the Show Cause Notice dated 18th November, 2013 and the decisions are as follows.

N

Charge 1: Examination of agreements entered with some of the agents and corporate agents revealed that there is no binding clause making the KYC norms mandatory in respect of business sourced. This is in violation of Clause 3.4(II) (i) (a) of Authority's AML Master circular CIR-IRDA-F&I-AML-158-09-2010 dated.24.09.2010.

In response the Life Insurer has submitted that a specific clause "Conduct & Compliance with Statutory Requirements" was inserted in all the agency agreements; and that compliance with AML/CFT guidelines is covered in the overall definition of laws etc and that pursuant to Authority's circular, 2010 a prescribed clause has been specifically incorporated in all the Agency agreements prospectively (for both new recruitments and renewals).

Decision: It is to be noted that the Authority has issued AML Master Circular first on 30.03.2006 wherein the requirement of incorporation of specific AML Compliance clause in agency agreements was mandated. It is noticed that amongst the instances noticed, one of the agreements was entered prior to this date. Hence the Life Insurer should have complied with the provisions mandated. It is to be reiterated that an exclusive clause as required in the AML Circular may specifically draw the attention of Corporate Agents; hence a specific mention in the agreements is of paramount importance. However considering the submissions that an omnibus clause had been incorporated in all the agency agreements prior to 24/09/2010 and the confirmation that a specific clause has been incorporated since 24/09/2010, charges are not pressed. However, the Life Insurer is advised to strictly comply with the AML Guidelines issued from time to time.

Charge 2: Instances were noticed where, multiple Payor IDs were created to the single person in the internal systems, leading to potential gaps while monitoring the AML norms. This is in violation of clause 3(I) (Internal Policies, Procedures and Controls) of AML Circular dated 24/09/2010.

In response the Life Insurer has submitted that a unique "Payer ID" is generated to track aggregate payments made by him and the Payer ID is intended for internal review purposes and is not communicated to others. The Life Insurer further submitted that the payor ID is created through a combination of Full name, Date of Birth and Gender hence the uniqueness of the payer ID depends on perfect match of these parameters and that separate payor IDs might get created in some instances where there are inconsistencies in the data provided in the application form/data entry errors etc. The Life Insurer confirmed documentation of copies of PAN Card and assured taking measures to ensure that such errors are minimised and also further confirmed that they have placed double data entry process to reduce clerical errors and the AML software being implemented has the required de-duping capabilities.

Decision: It is to be noted that if the objective of creating "Payer ID" is to track the transactions from the perspective of AML, the Life Insurer should have in place the procedures to verify the similarities in the parameters considered for

2

creating "Payer ID" and systems to generate exception reports so as to avoid creation of duplicate client IDs. Without having effective internal controls, procedures, the purpose for which "Payer ID" is created will be defeated which may potentially lead to gaps while complying with the AML norms. However, noting that the instances referred did not result in deviations, the Authority *cautions* the life insurer for not monitoring the internal procedures and advises the Life Insurer to put in place fool proof systems to ensure compliance with the AML norms.

Charge 3: In certain instances, multiple cash transactions were accepted exceeding Rs.50, 000/- on a single policy from the same Payer without PAN. Examination of these transactions also revealed that review was not carried out from the perspective of reporting the STRs in accordance to the extant AML norms. This is in Violation of clause 3.2 (ii) of AML circular IRDA/F&I/CIR/AML/231/10/2011 dated 5/10/2011 and 3.2 (I) of (read with Annexure IV) AML Circular Ref no.IRDA-F&I-AML-158-09-2010 dated.24.09.2010

In response the Life Insurer vide e-mail dated 05th July, 2013 forwarding the response to the Inspection Report informed that the PAN was not insisted for valid reasons, while vide letter dated 28th November, 2013 in response to the Show Cause Notice, informed that the PAN is available in all the referred cases. The information on capturing the PAN is also noticed to be not consistent in the letter dated 28th November, 2013. Notwithstanding the inconsistency referred herein, the Life Insurer submitted that under some of the cases the PAN was not insisted upon based on the amount of the remittances under the policy. As regards reviewing the transactions from the perspective of STRs, vide letter dated 28th November, 2013 the life insurer submitted that it opined that the transactions were not subjected to review as suspicious transactions.

Decision: At the outset submitting inconsistent responses at various points of time is not appreciated. The Life Insurer shall note that inconsistency in the responses offers no regulatory comfort; therefore the submissions are not accepted.

- (i) The submissions of the Insurer that in two of the instances the cash at the rate of Rs 50000 each on different dates was accepted in lieu of dishonoured cheques and that PAN was captured at new business stage hence considered to be unfit for reviewing from the perspective of reporting the STRs indicate that the Life Insurer did not pay attention for reviewing the transactions from the perspective of whether or not to report as STRs.
- (ii) The submissions of the Insurer on another instance, that cash payments were made for two different policies under two different



transactions, where amount per transaction is not in excess of Rs 50000 and therefore PAN was not insisted upon is not considered valid.

- (iii) In case of one more instance, the submissions that the PAN was not insisted upon as two different monthly modal premiums were remitted in the same calendar month and that the cash remittances per transaction is not in excess of Rs 50000 are also not acceptable.

On examining the pattern of transactions referred herein, it is noticed that the life insurer violated the provisions of Clause 3.2 (ii) (d) of Authority's circular dated 05th October, 2011. It is further, observed that the Life Insurer also did not put in place the procedures and controls as envisaged in Clause 3 (I) of Authority's master Circular dated 24th September, 2010 so as to ensure compliance to Clause 3.2 (ii) (d) of the Circular dated 05th October, 2011. The Life Insurer is *cautioned* to note that the Authority considers the system lapses as serious gaps in the operational systems. Though, the Life Insurer submitted that it has strengthened its systems, the Authority considers the need for a thorough examination of the same, the decision of which is separately addressed in the successive decisions.

On inconsistent submissions the Life Insurer is directed to strengthen the compliance procedures and put in place effective and fair compliance norms.

Charge 4: In various instances, it is noticed that the same PAN was accepted for different payers while accepting cash towards premium. From the compliance submitted it was further noticed that the premiums are collected from third parties. This is in Violation of Clause 3.2 (ii) (a) and (b) of IRDA Circular on AML No. IRDA /F&I/ CIR/ AML/231/10/2011 dated 05/10/2011 and Clause 3.1.1 (vi) IRDA Master Circular on AML Ref No. IRDA/F&I/CIR/AML/158/09/2010 dated 24th September, 2010.

In response the Life Insurer has submitted that the same PAN number has been erroneously entered against multiple policies during premium collection stage and submitted having collected details of relevant PAN numbers. With regard to collection of premiums from third parties, the Life Insurer submitted that, a list of acceptable relatives who can pay the premiums are defined in the Standard Operating Procedure and that the third party payments are not accepted by the Company. The Insurer also clarified that all the payers for the cited instances have insurable interest on the lives insured

Decision: The submissions on the charge are considered hence no charges are pressed.



Charge 5: Effective systems are not in place to report the Cash Transactions. Further, in respect of various instances, no review was carried out for reporting the cash transactions. This is in violation of Clause 3.2 (ii) of IRDA circular no. IRDA/F&I/CIR/AML/231/10/2011 dated October 5, 2011.

The Life Insurer's contention is that as the Life Assured is different hence the cases mentioned above were not reported and further confirmed that subsequently, they have reported CTRs to the FIU-IND during October, 2013. The Life Insurer has further assured that they will strengthen their review process in instances of renewal premium paid by cash from a payer who has already been assessed from AML perspective during underwriting stage and also highlighted that AML software is being implemented to ensure such instances for further reporting.

Decision: The contention that the life assured was different hence the transactions were not reported to FIU IND is not acceptable. In one of the instances (i) two of the payments (on two different policies) towards renewal @ Rs 502605 were paid in cash by the same payer on the same date, that is on 14th December, 2012 and one payment @ Rs 502308 by the same payer was collected on 31st January, 2013.

In another instance (ii) the life insurer collected four cash payments (towards initial payments) from the same payer @ Rs499987 on 04th March, 2013, Rs 249736 on 31st March, 2013, Rs 30000 on 07th February, 2013 and Rs 499564 on 15th March, 2013. On examining the pattern of the transactions it is considered that these are fit to be reported as CTRs to FIU IND as envisaged at Clause 3.2 (ii) of Authority's circular dated 05th October, 2011. It is further noticed that transactions referred in the two instances also deserve to be examined from the perspective of whether or not to report as STRs as envisaged in Section 3.2 (i) (a) (Annexure – IV) of Authority's Master Circular on AML, dated 24th September, 2010. Though the Life Insurer confirmed that they have now been reported as CTRs, it is noted that the Life Insurer's action is only post inspection. It is also noticed that the steps being initiated to strengthen the systems is also post inspection. On examining the pattern of transactions entertained, it is noticed that the Life Insurer violated the provisions of circulars mentioned above. From the submissions forwarded it is noticed that the systems put in place by the life insurer are not adequate to monitor the reporting requirements. Therefore, there is a need to further examine the systems which is also addressed hereunder in this order.



Charge 6: In respect of various instances multiple DDs were accepted towards a single policy / multiple policies of same 'payor' and no review was carried out from the perspective of reporting STRs.

Further, it is also observed that there are no systems in place to review the policy refunds from the perspective of reporting the STRs. This is in Violation of 3.2 (i) (a) (Annexure - IV) of AML Master Circular, 2010.

In response the Life Insurer has submitted that the payments that are made in multiple Demand Drafts denominated for less than Rs.50, 000only are taken up for review of STRs as indicated in Annexure IV of AML Master Circular dated 24/09/2010, hence the instances noticed by the Authority were not considered for STR review since all the Demand Drafts are greater than Rs.50,000. The Life Insurer also viewed that as PAN card is mandatory to obtain Demand Draft for greater than Rs.50,000/-, they have considered such payments as AML compliant and further submitted that going forward they would review the approach. With regard to policy refunds the Life Insurer has submitted that policy refunds are made to policy holders only.

Decision: The submissions that the Life Insurer is complying with Annexure IV of Master Circular on AML, 2010 by reviewing only D Ds whose value is less than Rs 50000 are not acceptable. The relevant clause of IRDA Circular mentions the word 'also' which means that it includes all such instruments / DDs that warrant a closer review. The transactions referred in the Inspection Observation where the remittances being from the same payer; (i) in one of instances two D Ds of the same date for values of Rs 600000 and Rs 450000 are remitted on the same policy, similarly in three different instances; (ii) three D Ds of the same date for values Rs 600000, Rs 600000 and Rs 352700 were remitted towards same policy, (iii) two D D s of the same date and bank of Rs 800000 each and (iv) three D Ds of Rs 700000 dated 05th September, 2012, Rs 700000 dated 07th September, 2012 and Rs 600000 dated 05th September, 2012 towards a single policy deserve to be examined from the perspective of reporting the STRs, if any.

With regard to policy refunds the submissions are not acceptable, all policy refunds shall be reviewed from the perspective of reporting the STRs as envisaged in Master Circular on AML, 2010. However, Considering the submissions that all the Demand Drafts are of value greater than Rs.50,000/- and taking into account the type of Banks that issued Demand Drafts and that various categories of policy refunds are being reviewed, charges are not pressed. However, the Life Insurer is *warned* for the deviations noticed in the Charge and advised to ensure compliance to the Guidelines / Circulars issued by the Authority in this regard.



Charge 7: Effective systems were not in place to ensure the authenticity of the KYC documents submitted by the insured. This is violation of 3.1.2 of AML Master Circular Ref No. IRDA/F&I/CIR/AML/158/09/2010 dated 24th September, 2010.

The Life Insurer has submitted that all the copies of KYC documents obtained with self attestation by the customer hence the onus of authenticity lies on the customers and that a declaration is taken from the agent in the proposal form wherein certification is obtained having verified the original KYC documents. It was further submitted that PAN is being verified from the NSDL since 01st July, 2011 for authenticity on a sample basis and the same was made on a 100% basis since July, 2013. It was further submitted that the policy referred in the Inspection report was already cancelled under Free look provision.

Decision: At the very outset the submissions of the Life Insurer that the onus of submitting the right KYC documents rests with the customer is not acceptable and is also against the spirit of the AML Guidelines. In the case under reference it was confirmed that the policy referred was already cancelled under Free Look. This clearly indicates possible suspicious transaction. The Life Insurer's approach of completely depending on the self attestation of the KYC documents by policy holders and the declaration from the agent bespeaks the absence of seriousness on the part of the Life Insurer in complying with the AML Guidelines of the Authority. Considering the instance of life insurer accepting the fake PAN and fake Income Tax returns and casual approach of the compliance, the Authority considers the systems of the life insurer in complying with KYC norms envisaged in Clause 3.1.2 of AML Circular dated 24th September, 2010 are deficient and warns life insurer for the violations. The Life Insurer is also directed to be vigilant in complying with KYC norms prescribed by the Authority.

Charge 8: Instances are noticed where assignments are registered for various other reasons viz., "unable to continue the policy", "friend", etc. and procedures are not in place to track such assignments and put up for review of such instances as potential STRs. This is in violation of Clause 3(I) of AML Master Circular Ref No. IRDA/F&I/CIR /AML/ 158/09/2010 dated 24th September, 2010.

The Life Insurer has submitted that in all the assignment cases necessary KYC are obtained and suspicious cases are reviewed periodically and reported as suspicious under the STR if found inappropriate. It was further submitted that while the reasons submitted by the assignor are recorded verbatim, the assignment documents do reflect the assignments are made for valid reasons.

Decision: On examining the submissions of the life insurer the instances highlighted in the observation have been considered for STR reporting and have been reported, no charges are pressed.



Charge 9: Instances are noticed where enhanced due diligence was not carried out to the required policies as envisaged in the AML norms in violation of Clause No. 3.1.1 (vii) and 3.1.3 (iii) of AML Master Circular Ref. IRDA/F&I/CIR/AML/158/09/2010 dated 24th September, 2010.

The Life Insurer submitted that enhanced due diligence is elaborately covered under their AML policy and the same is adhered to during new business stage and further submitted that their underwriting team also check available public information and any suspicious profile is forwarded for review from the perspective of STR and for reporting, if necessary.

Decision: The Life Insurer did not specifically submit that enhanced due diligence was carried out in the cases referred in the inspection report, neither it submitted the reasons for not considering the enhanced due diligence. Therefore, the compliance submitted by the life insurer is not acceptable. It is considered that there is a need for putting in place measures and procedures. Hence the Life Insurer is hereby warned for deviations referred herein. The Life Insurer is also hereby directed to be cautious hereinafter.

The violations referred in Charge 3 and Charge 5 are considered serious in nature. Therefore, in addition to the directions issued in the respective decisions, under the powers vested in Section 102 (b) of the Act, the Authority imposes a penalty of Rs 100000 (Rupees One Lac only).

It is further noticed from the charges and submissions of the life insurer, that the procedures that are put in place by the Life Insurer deserve a closure examination in order to ensure that it complies with the AML Guidelines issued by the Authority from time to time. Therefore, the Authority hereby directs the Life Insurer under the powers vested in Section 14 (2) (h) of IRDA Act, 1999 to cause an independent investigation of the extant operational procedures that are put in place to ensure the compliance with all the AML Guidelines / circulars issued from time to time by an independent Chartered Accountant firm (or as many number of CA firms as may be required to complete the within required examination within the time frame prescribed under these instructions), having a standing experience of over ten years in auditing the reputed Financial Institutions. As part of the mandate to carry out the examination, the CA firm (s) shall be directed to cover, inter alia, the operational systems in place for generating various exceptional reports for the purpose of monitoring and reviewing the CTRs / STRs, the operational systems in place to record and report the integrated cash transactions likely to be carried out across various operational offices to circumvent the disclosure of PAN details as envisaged in Clause 3.2 (ii) (d) of Authority's Circular No. IRDA/F&I/CIR/AML/231/10/2011 dated 05th October, 2011, procedures put in place to review the reports from the



perspective of whether or not reporting as STRs and all other policy / operational systems that deserve to be examined for overall compliance with the AML norms / guidelines issued by the Authority from time to time.

The name(s) of the CA firm(s) that is appointed for conducting the within referred examination shall be notified to the Authority within 30 days from the date of this order. The Chartered Accountant firm (s) appointed for this purpose shall be directed to complete the examination and submit the report of findings within a maximum period of 45 days from the date of their respective appointment. The Life Insurer is also directed to submit the Authority, the report of findings of examination submitted by the said CA firm(s) within 15 days from the date of receipt of the respective reports.

Hence, as directed the penalty of Rs1,00,000 (Rupees One Lakh only) shall be remitted by the Life Insurer by debiting shareholders' account within a period of 15 days from the date of issuance of this Order through a crossed demand draft drawn in favour of Insurance Regulatory and Development Authority and payable at Hyderabad which may be sent to Mr. V Jayanth Kumar, Joint Director (Life) at the Insurance Regulatory and Development Authority, 3rd Floor, Parishrama Bhavanam, Basheer Bagh, Hyderabad 500 004.

Insurer is also advised to confirm the compliance in respect of all other directions referred in this order within 15 days from the date of issuance of this order

Place: Hyderabad

Date: 12/02/2014


(Sudhin Roy Chowdhury)

Member (Life)