



बीमा विनियामक और विकास प्राधिकरण
**INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY**

Ref: IRDA/INSP/ORD/ONS/216/09/2014

Final Order in the matter of M/s Aegon Religare Life Insurance Company Limited

Based on the reply to the Show Cause Notice dated 13th February, 2014 and submissions made during Personal Hearing Chaired by Mr. T.S. Vijayan, Chairman, IRDA held on 15th May 2014 at 11.15 am at the office of the Insurance Regulatory and Development Authority, 3rd Floor, Parishrama Bhavan, Basheer Bagh, Hyderabad

The Insurance Regulatory and Development Authority (hereinafter, referred to as 'the Authority') carried out an onsite inspection of **M/s Aegon Religare Life Insurance Company Limited** (hereinafter, referred to as the Life Insurer or ARLIC) from 9th July 2012 to 18th July 2012. The Authority forwarded the inspection report to the Insurer vide letter dated 25th October 2012 seeking their comments on the same.

Upon examining the submissions made by the Insurer vide letter dated 23rd November 2012, the Authority had issued a Show Cause Notice on 13th February 2014 which was responded to by the insurer vide letter dated 6th March 2014. As requested therein, personal hearing was given to the Insurer on 15th May 2014.

Mr. K.S. Gopalakrishnan, MD & CEO, along with his team comprising of Mr. Patrick Curtin, Appointed Actuary; Mr. Rajiv Chugh, Chief Financial Officer; Mr. Debmalya Maitra, Head – Audit, Risk & Compliance; and Mr. Yateesh Srivastava, Chief Operating Officer were present at the hearing on behalf of the Life Insurer. On behalf of the Authority, Dr. (Ms). Mamta Suri, Sr. JD (Inspection & Compliance), Ms. Meena Kumari,

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Sr. JD (Actuarial), Mr. Ramana Rao, JD (Investments), Mr. D.V.S. Ramesh, DD (Life), Mr. R.K. Sharma, DD (F&A-life), Mr. G.R. Surya Kumar, DD (Executive Assistant to Chairman), Ms. B. Padmaja, Sr. AD (Inspection Compliance), and Ms. Kanthishri, AD (Inspection Compliance), 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 explanation offered by the Life Insurer to various charges in the Show Cause Notice and the decisions thereon are as follows:

Charge 1

During the course of Valuation, 'Off' movements like Free-looks, Surrenders, Partial withdrawals, etc., were not reconciled with the data of the concerned operating departments.

The above was in violation of Clause 6 of Annexure II of Corporate Governance Guidelines, IRDA/F&A/CIR/025/2009-10 dated 05/08/2009 and Regulation 3(4) of IRDA (Actuarial Report and Abstract) Regulations,2000.

Insurer's submission

The Life Insurer submitted that some of the data pertaining to the off movements was obtained manually as these functionalities had not been automated at the time of onsite inspection. The Life Insurer further submitted that owing to their recent entry into the market, their business was at a nascent stage, with the first policy in July, 2008. Thus, given that the off movements such as surrender of policy were only possible after a lock-in period of three years, the relevance of software support to these functionalities arose only from the year 2011-12. These functionalities have since then been automated. Further, ARLIC have confirmed that until September 2010, they did not write

any significant volumes of traditional products offering surrender value. The Life Insurer has also indicated the systems and processes that are in place post automation.

Decision

It is to be noted that reconciliation of various off movements mentioned in the charge are critical to ensure accuracy and completeness of data used for estimation of future policy liabilities. However, considering the submissions made that the insurer had not written significant volumes of traditional policies that offer surrender values and that the various functionalities have since been automated, the charges are not being pressed. However, the Life Insurer is advised to put in place effective systems and processes to ensure accurate valuation in compliance with the relevant regulatory stipulations.

The Insurer is further directed to ensure continued compliance with various requirements under the IRDA (Actuarial Report and Abstract) Regulations, 2000.

Charge 2

Total receivable amount under the head "Due from other entities carrying on insurance business" is considered as available asset for the 'solvency margin' purposes irrespective of ageing, i.e., Reinsurers' balances outstanding for more than three months were also considered.

The above is in violation Regulation 2(1)(h) Schedule I read with Regulation 3 of IRDA (Assets, Liabilities and Solvency Margin of Insurers) Regulations, 2000

Insurer's submission

The Life Insurer submitted that the process followed entails ascertaining reinsurance balances to pay the reinsurer at the end of every quarter any amount of reinsurance premium payable in excess of amounts due from the reinsurer. The amounts due from the reinsurer comprise of share of the reinsurer's claims receivable and profit sharing.

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Thus, the process of payment to reinsurers factors-in the claims amount due from the reinsurers, irrespective of the age of the claim. Further, the Insurer has claimed that the aforesaid practice is in line with the contractual right to adjust the reinsurance premium payable with reinsurance claims recoverable at the time of settlement as per the reinsurance treaty. ARLIC also confirmed that even in case of disallowance of the amounts due from reinsurers for more than three months, the solvency ratio would be 259% which is well above the 150% stipulated by the Authority.

Decision

The IRDA (Assets, Liabilities and Solvency Margin of Insurers) Regulations, 2000 clearly indicate that the reinsurance balances outstanding for more than three months shall be valued at 'Zero' for the purposes of Valuation of Assets. Hence, the approach of the Life Insurer is not in accordance with the requirements of Regulation 3 of the IRDA (Assets, Liabilities and Solvency Margin of Insurers) Regulations, 2000. The Life Insurer is hereby directed to strictly comply with the provisions of the Regulations mandated by the Authority at all times.

However, considering the confirmation received from the Life Insurer that exclusion of "Due from other entities carrying on insurance business" outstanding for more than 3 months, as laid down in the Regulations, would not have resulted in the life insurer breaching the mandatory solvency margin, the charges are not being pressed.

Charge 3

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

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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.

Insurer's submission

The Life insurer submitted that the impact of delay in crediting the investment income for a maximum of one month is compensated by making good the deficit in the respective policyholders fund by the shareholders as at the end of each month. Further, while acknowledging that the current practice could possibly have an impact on the "Policyholders' Participating Fund" (with profits fund) if there is surplus, the Life Insurer submitted that currently the Fund is in deficit and that the Company makes good the deficit arising in all the funds before declaring bonus to participating policyholders. However, considering the possible impact on the "Policyholders' Participating Fund", in a situation where surplus arises in future, the life insurer has implemented the process of transferring the assets from Shareholders' funds to Policyholders' Participating Fund one month in advance with effect from 1st April 2014.

During the personal hearing the Insurer was directed to discontinue even the revised practice with immediate effect since it was not compliant with the regulatory requirements. In further submissions, post the personal hearing, the insurer has indicated that effective from 1st July 2014 they will consider the net amount available for investments from premium receipts as part of the respective policyholders' funds and in case of any increase in policy liability, i.e., a shortfall in assets available to support the policy liabilities, the same shall be funded by way of allocation of investments from the shareholders' funds to the respective policyholders' funds.

Decision:

The process, detailed above, adopted by the life insurer was not in compliance with the provisions of the Act mentioned herein. However, considering the confirmation submitted by the life Insurer that the participating funds were in deficit as on the date of inspection and even thereafter, and these have been made good through transfer of funds from the shareholders' account for each of the respective financial years, thereby causing no loss to the policyholders; and keeping in view the assurances given by the life insurer confirming implementation of the changes in the process to ensure allocation of premium income to the respective funds effective from 1st July 2014, the charges are not being pressed. The Life Insurer is hereby advised to ensure strict compliance with various provisions of the Act at all times in the best interests of the policyholders.

Charge 4

Even though the Life Insurer's investment system is enabled to give signal whenever internal or regulatory limits are reached, it does not have hard limits to ensure effective compliance with regulatory limits on investments hence the fund manager can approve such deals even when regulatory limits are breached.

The above is in violation of Para B – 2 of Annexure III of IRDA Circular INV/CIR/008/2009-10 dated 22/08/2008 and Clause 6 of Annexure II of Corporate Governance Guidelines, IRDA/F&A/CIR/025/2009-10 dated 05/08/2009.

Insurer's submission:

The Life Insurer submitted that they were aware of the underlying risks of not putting a Hard Limit in the system and hence the Fund Managers have not been given the right to

approve Deals in the System. Besides, as an additional control all the soft limits in the system are being set at a level lower than the regulatory limit.

Further, the life insurer informed that a revised module has been obtained from the service provider wherein the limit monitoring happens on Real time basis. The same is effective from 2nd April 2014. The module also has hard limits built into it.

Decision:

Considering the submissions as enumerated above indicating that

- (i) checks and balances are in place to protect against the underlying risks of not putting hard limits in the system; and**
- (ii) implementation of the revised module effective 1st April, 2014**

the charges are not being pressed.

The Life Insurer is hereby, directed to ensure that systems and processes are in place at all times to ensure strict compliance with stipulations under the IRDA (Investment) Regulations, 2000.

Charge 5

It is observed that the shortfalls are allowed in initial premiums (to the extent of ₹150) and renewal premiums (to the extent of ₹15) are allowed and the same are debited to Operating Expenses.

The above tantamount to violation of Section 41(1) and Section 64VB (1) of Insurance Act, 1938.

Insurer's submission:

The Life Insurer submitted that a tolerance limit for shortfall in premium has been designed to address the operational inconvenience to the Policyholders. The Life

Insurer further submitted that this facility extended to policyholders has not been misused and the proportion of shortfalls allowed vis-à-vis the premium income for the respective years is miniscule. It was also informed that such shortfalls were being debited to the Shareholders' A/c effective from the financial year 2013-14.

Decision:

Considering the Life Insurer's submission that the aim of allowing such shortfalls is to avoid operational inconvenience to the policyholders and that the shortfalls already debited were small, the charges are not being pressed. However, given the fact that such practices have the underlying potential of being misused, the Life Insurer is hereby cautioned and directed to strictly comply with the provisions of section 64VB of the Act.

Charge 6

Mandatory requirement of minimum of 2 months' notice to the respective policyholders on the proposed relocation/ closure of offices is not given to the policyholders in a few cases.

The above is in violation of the Authority's Circular No. 041/IRDA/BOO/Dec-06 dated 28/12/2006

Insurer's submission

The Life Insurer submitted that the delay noticed by the Authority is due to inadvertent error on the insurer's part in calculating the notice period and confirmed that the process has now been strengthened to ensure that the required notice is issued as per the guidelines to policyholders.

Decision:

Considering the submissions of the Life Insurer that the delay observed was due to an inadvertent error on the insurer's part in calculating the notice period and



the confirmation received from ARLIC that the processes have now been strengthened to ensure compliance with the stipulated notice period, the charges are not being pressed. However, the Life Insurer is warned that any further violation of the provisions of the said Circular coming to the notice of the Authority shall be viewed seriously.

Charge 7

Copy of the proposal forms for the policies issued is not being furnished to the Policyholders.

This is in violation of Regulation 4(1) of IRDA (Protection of Policyholders' Interests) Regulations, 2002

Insurer's submission

The Life Insurer submitted that the instances noticed relate to rural term policy wherein as per the process, the policy is issued to the policyholder across the counter at the time of sale itself. Hence the information on the proposal form and policy schedule issued at time of sale is the same. The Insurer has further confirmed that the tear away portion of a four page policy document with control number is given to the policyholder, at the time of sale.

Decision: The provisions of Regulation 4(1) of the IRDA (Protection of Policyholders' Interests) Regulations, 2002 stipulate that a copy of the proposal form shall be provided to the policyholder for the policy issued. Hence, mere provision of the acknowledgement of receipt/policy schedule to the policyholder does not ensure compliance with the said Regulation. The Authority has taken a serious view of the violation and the Insurer is hereby directed to modify the laid down processes to ensure compliance with the requirements of the said Regulation.

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Charge 8

On examination of the details of rural policies issued it is observed that

- a) Full addresses under the policies categorized as rural policies were not captured to establish such policies procured are from Rural Area.
- b) Huge number of policies under Rural Sector are issued on a single day and
- c) A product which was approved for sale to individuals was offered on a group basis.

The above are in violation of IRDA (Obligations of Insurers to Rural or Social Sectors) Regulations, 2002 and violation of IRDA/F&A/012/2005-06 dated 08/06/2005. Issuance of individual product on a group basis is also the violation of File and Use guidelines.

Insurer's submission:

With regard to point (a) above, the Life Insurer has submitted that incomplete address was captured in the system inadvertently though full address is available in the proposal forms and now the same are updated in the system. The insurer confirmed that they have verified their rural policy database. The errors were noticed only in 5 cases and it was assured by the Life Insurer that (i) such errors would not recur in future and (ii) the error detected had been corrected.

With regard to point(b) above, the Life Insurer has submitted that they do not have any rural branches and therefore they source the rural business once a year and assured that they will look at doing a more frequent sourcing and issuance of policy.

With regard to point(c) above, the Life Insurer has submitted that the persons insured are residents of the village and taluka mentioned in the address of the NGO. Since the addresses in rural areas are generic in nature, the NGO's address is recorded to help communicate with the customer, take assistance from NGO to reach out to the rural population as they do not have rural branches to service customers. It was confirmed

that the policies are sold to the identified individuals only and it should not be construed as a group business. It was further indicated that the said products have since been withdrawn.

Decision

With regard to point (a) above, considering the submissions that incomplete address was captured in the system inadvertently, the number of errors was minimal and that the corrective measures have since been taken, the charges are not being pressed. The Life Insurer is, however, directed to have systems in place to ensure that complete details are captured to ensure compliance with the regulatory stipulations. Incomplete information captured on policies underwritten in rural areas shall henceforth, be considered as 'other than rural business'.

With regard to point (b) above, the Life Insurer's submissions that they source rural policies once in a year as they do not have rural branches, are found to be not acceptable. By sourcing the policy on a single day, the insurer has not complied with the requirement of IRDA's circular dated 8th June 2005. However, considering the assurances given to bring in corrective measures, the charges are not being pressed. The Life Insurer is hereby directed to ensure compliance with rural obligations in their true spirit and to evenly spread and procure the business in this segment during the course of the entire year.

With regard to point (c) above, considering the submissions made, the charge is not being pressed.

Charge 9

On examination of details of Social Sector policies issued it is observed that:

- a) Occupation details are not captured correctly to establish the authenticity of policy to be categorized as "Social Sector"

b) All of Master policies under Social Sector are issued almost at the end of the financial year thereby not ensuring uniform spread of social business in the financial year.

Violation of Clause 6 of Annexure II of Corporate Governance Guidelines, for not having systems to capture the occupation details to ensure compliance of the Social Sector Obligations and for violation of Circular No. IRDA/F&A/012/2005-06 dated 08/06/2005

Insurer's submission:

The Life Insurer has confirmed that the master policy holder is engaged in the business of providing security services with operations spread across India. The members covered under the policy earn their livelihood by working as security guards. This is a low skilled job which falls under the definition of social sector. It was further submitted that the insurer will henceforth ensure that the exact nature of profession is mentioned in the occupation field so that there is no difficulty in assessing that the profession of the lives covered is as per the requirements of the regulations.

With regard to violation as at point (b) above, the Life Insurer has submitted that, considering the business volumes during the latter part of the financial year, the social sector targets were achieved at the end of financial year to ensure compliance with the regulation. The Life Insurer has assured that going forward all efforts shall be made to spread the target of social business uniformly in any given financial year.

Decision:

Considering the Life Insurer's submissions that the referred policies were issued to individuals falling under the purview of the definition of social sector and that compliance with social sector obligations has been ensured for the financial year under reference, the charges are not being pressed.

Further, considering the assurances given that the company shall take steps to ensure uniform spread of social sector business over the entire year, the Life Insurer is hereby cautioned and directed to ensure compliance with social sector obligations in its true spirits.

Charge 10

Data on Free Look cancellation cases during 2010-11 and 2011-12, revealed that a number of Free Look cancellations are beyond stipulated 15 days period. Internal guidelines dated 30-8-2011 adopted for processing various policy cancellations revealed that medical fee and stamp duty or other charges are also waived for Free look cancellations in violation of IRDA Regulations.

The above is in violation of Regulation 6(2) of IRDA (Protection of Policyholders' Interests) Regulations, 2002

Insurer's submission

The Life insurer has submitted that, based on the customer's complaint, an investigation is carried out by an independent team on the points alleged/raised by the customer and in case of any violations observed; appropriate action is initiated against the sales force. Where required internal specialist assistance is also taken and if it is found that complaints have merit, decision for refund is taken as per delegated authority from the schedule of authority note. Care is taken to ensure that there is fair treatment and handling of the complaint from the customer and Company's point of view.

Decision:

Cancellation of the policy under free-look option after the expiry of prescribed period without deducting the permissible expenses may adversely affect the interests of the continuing policyholders. It is also not in the interest of the Life insurer to entertain such requests as they may lead to possible market misconduct. Considering that the insurer reviews such requests on merit and is

guided by the internal processes laid down in this regard, the charges are not being pressed. However, the Insurer is hereby directed to ensure that any refund to the policyholder over and above as prescribed in the regulations shall only be charged to shareholders' account. It shall be ensured that the interests of the existing policyholders are not adversely affected. The Life Insurer shall endeavor to ensure compliance with the relevant provisions of IRDA (Protection of Policyholders' Interests) Regulations, 2002 while allowing Free Look Cancellations.

Charge 11

Significant delays noticed in processing the surrender requests/ settlement.

This is in violation of Regulation 8 of IRDA (Protection of Policyholders' Interests) Regulations, 2002

Insurer's submission

The Life Insurer has submitted that in three out of four cases examined by the Authority, the surrender requests were received before mandatory lock-in period and has confirmed that the payouts were made within prescribed time from the end of lock-in period. However, in one case, the Life Insurer submitted that there was delay as they had received the surrender application during transition period through the manual process. It was further confirmed that the claim request processing systems have now been automated hence no delays are likely to occur.

Decision:

The submissions of the Life Insurer were considered. The Life Insurer is hereby advised to ensure compliance at all times with the claims processing procedure laid down in respect of life insurance policies under Regulation 8 of IRDA (Protection of Policyholders' Interests) Regulations, 2002.

Charge 12

The procedure adopted for registering assignments revealed that

- Consent of assignee is not taken to enable policy alterations such as change of name, change of address, top up premium (in case of ULIPs) change of premium mode etc., even after assignment registration.
- There is a delay of more than 19 days for registering the assignments

Violation of Section 38 of Insurance Act, 1938, Regulation 10(1) (c) of IRDA (Protection of Policyholders' Interests) Regulations, 2002

Insurer's submission

The Life Insurer has submitted that the assignment form was designed to state that assignor retains the rights like change of name, change of address, top-up premium (in case of unit linked policies) change of premium frequency and change of payment mode even after assignment of the policy. As this form is signed by the assignor and assignee hence it is construed as an acceptance by assignee in this regard. Therefore, the insurer was of the opinion that there are no additional legal risks in this regard. However, based on the Authority's observation, the Assignment form has since been revised.

With regard to delay in registration of assignment under the cases observed by the Authority, in two of the cases, there was delay in printing/issuance of policies. However, the assignments were registered post printing/issuance within prescribed time period. In another two of the cases, the assignment notice was invalid as no policy was issued in the name of assignor on the date of notice. In another case, due to a technical issue, policy number was missed in post issuance policy data file. Post correction and issuance of the policy, the assignment was registered within the prescribed time.

Decision:

In view of the Insurer's submissions on modifications carried out in the Assignment form in line with the requirements of section 38 of the Insurance Act, 1938, the charges are not being pressed. The Life Insurer is advised to strictly comply with the provisions of the Act while servicing the assigned policies.

As regards the delay in registration of assignment requests, while taking the submissions into consideration, the Life Insurer is warned for not having put in place suitable systems to ensure compliance with IRDA (Protection of Policyholders' Interests) Regulations, 2002. Any delays in registration of the assignments coming to the notice of the Authority henceforth, shall be viewed seriously.

Charge 13

The claim requirements under Health Insurance were obtained in piecemeal which resulted in delay in claim settlement. Despite taking more than six months to settle the claim, no penal interest was paid.

Violation of Regulation 8 of IRDA (Protection of Policyholders' Interests) Regulations, 2002

Insurer's submission:

The Life Insurer has submitted that, in the specific case examined by the Authority, all the requirements were raised and subsequently, it was closed for non-receipt of requirements. Later on, after following up with the claimant and obtaining the requisite claim forms, the case was re-opened. The claim was effectively settled within 180 days from the reopening date, which is the date when all the requisite documents were submitted by the insured.

Decision:

The submissions of the Insurer that it had closed the claim request due to non-receipt of documents (that were requisitioned) are not acceptable. The closure of the claim requests and the delays in the settlement are viewed as serious violations.

In all cases, the Life Insurer needs to rigorously follow up on its requirements and guide the claimant for speedy settlement of a claim, which is a core contractual obligation of the Life Insurer.

Based on the review of the documents on record, it is observed that the insurer had sought the details on a piecemeal basis in violation of Regulation 8 of IRDA (Protection of Policyholders' Interests) Regulations, 2002. Considering the confirmation that the life insurer reopened the case and followed it up with the claimant to obtain the required documents and finally settled the claim, the charges are not being pressed.

The life insurer is, however, directed to review cases, if any, which have been closed on account of non-submission of the requisite documents and ensure necessary follow up on the same for speedy closure/settlement.

Further, taking serious note of the fact that calling for information on piecemeal basis is in contravention to the relevant Regulations, the Life Insurer is cautioned and directed to streamline their claim settlement processes/systems in line with the extant regulations.

Charge 14

On examination of sample proposals sourced by the individual agents attached to "BA-Channel" a sales distribution channel, it is observed that the agents are neither signing

anywhere in the proposal related documents nor signing the confidential reports. Hence it is noticed that procedures are not in place to ensure that the policies are being solicited by licensed individuals only.

The above is in violation of Section 42(7) of Insurance Act, 1938 and in Violation of IRDA Circular IRDA/CIR/010/2003 dated 27/02/2003

Insurer's submission

The Life Insurer has submitted that the proposal forms were signed by the employee of ARLIC who used to support the agent in his sales process. This was a process gap where back office at the branch failed to check whether the proposal form was in fact signed by the agent. Further, it was submitted that they have created a process wherein the Centralized Operations will check on a periodic basis few sample forms of all the performing agents (irrespective of the channel to which they are attached) with the agent's specimen signature to ascertain that proposal form is duly signed by him/her. Corrective actions will be taken for any negative observations and status report of the same will be reported to the Audit Committee and the Management. The Life Insurer has confirmed that the relationship with most of such individual agents has been discontinued.

Decision:

From the relevant documents pertaining to the cases examined by the Authority, it is established that the Life Insurer has sourced the policies through unlicensed individuals/entities in violation of the provisions of the Act and Circular mentioned herein. Hence considering this as a gross violation and taking a serious view in the matter, the Authority under the powers vested under Section 102(b) of the Act, levies a penalty of ₹ 5 lakh (Rupees Five lakh only) for the observed serious lapse. It is further directed that the Insurer shall put in place

appropriate procedures to ensure that solicitation of insurance business is carried out only through licensed entities.

Charge 15

One of the outsourcing agreements entered towards providing training to sales personnel on basic selling skills and techniques, basic concepts of life insurance business, documentation, premium receipts etc., and payments made to the said entity was not reported to the Authority as prescribed under Outsourcing Guidelines, 2011. It is further noticed that the signatories of the service agreement also belong to one of the Corporate Agents of another Life Insurer.

Violation of Clause 11 of Outsourcing Guidelines, IRDA/LIFE/CIR/GLD/013/02/2011 dated 01/02/2011

Insurer's submission

The Life Insurer submitted that the activities mentioned in the agreements entered do not fall in the category of activities that are mandated to be reported under Guidelines on Outsourcing of Activities by Insurance Companies' ('Outsourcing Guidelines') 'IRDA/LIFE/CIR/GLD/013/02/2011.

As regards one of the signatories of the service agreements being from a corporate agent of another insurer, the life insurer claimed that the entity did not disclose the said details before the service agreement and that the information is not easily available to enable verification from their end.

Chapter G-Observation No.2 (g)

The agreement entered with M/s Da Vision for lead generation, telesales etc., and payments made thereof were observed to have not been reported to the Authority as prescribed under Outsourcing Guidelines, 2011. It is further observed that M/s Da

Vision (earlier known as VSERV Insurance solutions) is a Corporate Agent of the Life Insurer with effect from 29th October, 2009.

Insurer's submission:

The Life Insurer submitted that the activities mentioned in the agreements entered do not fall in the category of the activities that are mandated to be reported under Guidelines on Outsourcing of Activities by Insurance Companies.

Chapter G-Observation No.4 (b)

Agreements details entered into with two entities and payments made thereof with/to related parties of Insurance Brokers i.e., Buoyant Insurance Services (P) Limited (Related party of Karvy Insurance Brokers) and Anand Rathi Marketing Services Pvt. Ltd (Related party of Anand Rathi Insurance Brokers) were not reported as prescribed by the Authority under Outsourcing Guidelines, 2011.

Insurer's submissions:

The Life Insurer submitted that the entities as observed by the Authority are not related parties of the Brokers, and that the activities mentioned in the agreements entered do not fall in the category of the activities that are mandated to be reported under Guidelines on Outsourcing of Activities by Insurance Companies.

Decision:

The Life Insurer's contention that the said outsourced services are not explicitly covered under the outsourcing guidelines and have hence not been reported to the Authority is not acceptable. Clause 13 of the said Guidelines clearly mandates insurers to contact the Authority for clarifications in case of services that are not explicitly referred therein. Hence, the Life Insurer has grossly violated IRDA circular indicated above.

Regulatory action for the lapses observed in reporting requirements under outsourcing guidelines are mentioned in the decision under charge no. 21.

Charge16

An agreement was entered with "V Care Life" for various activities and the Insurer engaged the services of unlicensed entities/persons for solicitation of insurance business. It was further observed that various contests were floated on the performance and the employees of the entity were rewarded directly with Gift cards. It is also observed that a total amount of ₹2.22 crore was paid over and above the reward to employees of the entity. It is also noticed that the agreement details and the payments made thereof to the entity were not reported to the Authority as prescribed under Outsourcing Guidelines, 2011.

Violation of Section 40(1), Section 42(7) of Insurance Act, 1938 and IRDA Circular IRDA/CIR/10/2003 dated 27/03/2003 and also violation of clause 11 of Outsourcing Guidelines, IRDA/LIFE/GLD/013/02/2011.

Insurer's submission:

The Life Insurer submitted that the scope of services did not include solicitation of insurance business in any form and accordingly, they did not engage unlicensed entities/person for solicitation of insurance business. Further, it was submitted that the payouts through contests made to the employees of entity were a token of appreciation for the exemplary work in the mailing activities relating to distribution of pamphlets that created considerable brand awareness of the Company. With regard to compliance with Outsourcing guidelines, 2011, the Life Insurer submitted that the services taken from the entity do not fall under the purview of the same.

Decision:

The Authority notes with concern that rewards have been given to the employees of an entity for carrying out mailing activities. These rewards are over and above

the payments made to the entity for carrying out various marketing activities. Such payments are beyond acceptable rationalization. Looking at the quantum of rewards being given for the 'mailing activities' it is difficult to accept the insurer's contention that there was no solicitation of insurance business through unlicensed individuals. Regulatory action on this observation is mentioned in the decision below Charge 17.

Further, the Insurer's contention that these services are not explicitly covered under the outsourcing guidelines is also not acceptable. The Life Insurer has grossly violated the requirements under the Outsourcing Guidelines by not reporting the activities as mandated by the Authority.

Regulatory action for the lapse in reporting requirements is mentioned in the decision under charge no. 21

Charge 17

Activities outsourced to M/s Muthoot Insurance Advisory Services are observed to be in the nature of marketing activities which is the core activity and prohibited from being outsourced. It is also noticed that the outsourcing agreement and payments made thereof are not reported to the Authority as prescribed under Outsourcing Guidelines, 2011.

The above is in violation of Clause 2.3 and Clause 11 of Outsourcing Guidelines, IRDA/LIFE/GLD/013/02/2011 dated 01/02/2011

Insurer's submission:

The Life Insurer has submitted that the agreement clearly mentions that service provider will not engage in insurance sales related services and hence insurance sales related services have not been availed from the entity. With regard to compliance with reporting requirements of outsourcing activities the Life Insurer has submitted that the activities mentioned in the agreements entered do not fall in the category of the activities that are

mandated to be reported under Guidelines on Outsourcing of Activities by Insurance Companies.

Decision:

On examination of the relevant documents, it is observed that the M/s Muthoot Insurance Advisory Services are remunerated by the Life Insurer for the 'marketing activities'. Further, in addition to display of marketing material the employees of the entity were given gifts. It is difficult to accept that such gifts are given for work related to creation of visibility and brand awareness of the insurer, and not for 'marketing of their products'. Hence, it is reiterated that the Life Insurer has engaged the entity for marketing activity which is a prohibited activity to be outsourced, as per Outsourcing Guidelines, 2011.

With regard to the reporting requirements, the contention that these services are not explicitly covered under outsourcing guidelines is not acceptable. The Life Insurer has grossly violated the requirements under the Outsourcing Guidelines by not reporting the activities as mandated by the Authority. Regulatory action for the lapse in reporting requirements is mentioned in the decision under charge no. 21.

Based on the documents on record and considering various submissions of the insurer, it is observed under Charge 16 and Charge 17, that rewards were given to the staff of outsourced entities over and above the payments made to these entities for the outsourced activities. The amounts involved in such rewards are beyond acceptable rationalization when compared to the nature of services claimed to be rendered by the staff of outsourced entities. The Authority also notes that the said outsourced entities/their group entities were also engaged with other life insurance companies in various roles simultaneously. In view of all these concerns, the Authority under the powers vested under Section 102(b) of the Act, levies a penalty of ₹ 5 lakh each for rewarding the staff of "V Care Life"

and M/s Muthoot Insurance Advisory Services, i.e., ₹ 10 lakh in all (Rupees Ten Lakh only).

Charge 18

An agreement with Corporate Agent M/s Auric Financial Advisors Limited was entered for generation of leads and payments were made.

Violation of Clause 8.4 of Outsourcing Guidelines - Circular No. IRDA/CIR/GLD/013/02/2011 dated 01/02/2011 and for violation of Clause 21 of Corporate Agency Guidelines Ref. No 017/IRDA/Circular/CA Guidelines/2005 dated 14/07/2005.

Insurer's submission

The Life Insurer has submitted that they had entered into an agreement with M/s Auric Financial Advisors Ltd. (AFAL) on June 10, 2009 to seek services relating to identification and solicitation of potential walk-in prospects to become a Life Advisor, by tele-calling, information dissemination to walk-in prospects and other information regarding the Life Advisor's recruitment, documentation assistance in filling up the application form for becoming Life Advisors, verification and co-ordination for completion of necessary training etc., with the condition that the database used for making calls, initially, would be provided by the Life Insurer and if the database is not sufficient, AFAL can use their own database for tele-calling.

It was further confirmed that, the payments under the aforesaid agreement towards the outsourced activities being call center charges, were last made till June 7, 2011 after which the commercials in relation to such activity were terminated to ensure compliance towards the requirement of clause 8.4 of the Outsourcing Guidelines.

Decision:

The Insurer's submissions that the agreement with M/s Auric Financial Advisors Ltd., corporate agent of the insurer, to identify and solicit potential walk-in prospects to become life advisors was terminated on 7th June 2011 in compliance with the clause 8.4 of the Outsourcing guidelines are considered.

Based on the facts and documentary evidences on record, it is observed that Auric Financial Advisors Ltd., was remunerated by the insurer for recruitment of life advisors. This agreement has been entered into in addition to the Corporate Agency tie-up. Therefore, various payments made to the entity are in violation Clause 21 of Corporate Agency Guidelines dated 14/07/2005. As per the provisions of the said clause the Life Insurer is prohibited from entering into any other relationships with the corporate agent and making payments for the same. The Authority therefore, under powers vested vide Section 102(b) of the Act, levies a penalty of ₹ 5 lakh (Rupees Five Lakh only).

Charge19

Campaigns/reward programs were floated for the employees of a referral partner and an amount of ₹ 31.01 lakh was paid to Religare Macquarie Wealth Management Ltd., (RMWM), the referral company.

This is in violation of Regulation 11(11) of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010.

Insurer's submission:

The Life Insurer has submitted that the amounts paid are with respect to an intra-group event and not a campaign/reward program for the Referral Company. This event also coincided with the prestigious annual 'Red Carpet' Event of ARLIC held every year to felicitate the best performing employees of the Company. It was further informed that the referral entity regularly organizes such kind of big events for their HNI and super

HNI customers; hence their assistance was sought in organizing this event to ensure an effective and efficient event.

Decision:

On verification of relevant documents it is noted that the referral entity referred herein i.e., RMWM is not an events management entity. Hence, the insurer's claim of leveraging the group entity for managing the Life Insurer's annual event is not acceptable. Besides, the regulatory provisions are clear that there shall not be any payouts other than referral fee for the data base shared as per Regulation 11(11) of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010. Hence the Authority treats this as a gross violation and levies a penalty of ₹ 5 lakh (Rupees Five Lakh only) under the powers vested under Section 102(b) of Insurance Act, 1938.

The Life Insurer is also directed to ensure that, going forward, it shall not enter into such agreements with referral entities and shall ensure continuous compliance with the said regulations.

Charge 20

From the payouts made to Referral partners, it was observed that the referral fee or remuneration was paid twice for the same reference.

Violation of Regulation 8 of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010 and violation of Clause 6 of Annexure II of Corporate Governance Guidelines, 2009

Insurer's submission:

The Life Insurer has submitted that due to an inadvertent error they have released the remuneration as noticed by the Authority. It was further submitted that corrective action

has been taken and that the excess referral fee paid to the referral entity has been adjusted against the referral fees payable subsequently.

Decision:

Considering the submissions made by the Life Insurer that corrective action has been taken in the system and that ARLIC has recovered the excess referral fee from the referral entity, charges are not being pressed. However, the Life Insurer is hereby directed to strengthen its internal control mechanisms to ensure non-recurrence of such incidents henceforth. The Insurer is also directed to check various payments to RMWM right from inception of their agreement for possible errors.

Charge 21

Data base acquisition agreement was entered into with M/s. Religare Macquarie Wealth Management Limited (RMWM), a non-banking entity and also a group entity, prior to IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010. The Agreement also facilitated providing of various services including training and marketing support and research services. Huge payouts were made for the services rendered by the entity. It is also noted that the details of agreements and payments made thereof were not reported to the Authority as prescribed under Outsourcing Guidelines, 2011.

Violation of IRDA Circular No. IRDA/CIR/004/2003 dated 14/02/2003 and IRDA (Insurance Advertisements and Disclosure) Regulations, 2000 and Outsourcing Guidelines IRDA/LIFE/CIR/GLD/013/02/2011 dated 01/02/2011

Insurer's submission:

The Life Insurer submitted that the Authority's circular No. IRDA/CIR/004/2003 dated 14/02/2003 is applicable to insurers entering into an agreement with bank for referral business without explicitly prohibiting an insurance Company to enter into a referral

agreement with an entity other than a bank. All services taken and payouts made to RMWM towards lead generation have been made prior to the IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010. Accordingly, it was submitted that there was no violation of the aforesaid Circular.

It was further submitted that as required by the erstwhile second proviso of Regulation 10(1)(vi) of IRDA(Insurance Advertisements and Disclosure) Regulations, 2000, a third party may provide an insurance Company with information about its membership and collect compensation based only upon sales for that information. The agreement entered into with RMWM was towards lead generation and providing other services including training and marketing support and research services. The agreement was neither to seek information about the members of RMWM nor the compensation was based on sales based on conversion of leads. Hence the erstwhile second proviso of Regulation 10(1)(vi) of Advertisement Regulation 2000 is not applicable.

It was submitted that the referral activity is not covered under outsourced activity as it does not fall under the activities explicitly referred to in 'Outsourcing Guidelines'.

All services taken and payouts made to RMWM towards lead generation have been made prior to the IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010.

Decision:

Taking note of the submissions of the Insurer and in view of the ambiguity in the Regulation 10(1)(vi) of IRDA (Insurance Advertisement and Disclosure) Regulations, 2000 the charges on violation of IRDA circular dated 14/02/2003 are not being pressed.

As RMWM is a group entity, the Insurer have not complied with clause 9.15 of Outsourcing Guidelines, 2011 which requires reporting to the Authority before making payments to the third party service providers which are group entities.

Regulatory Action on this violation is stated after similar violation indicated under Inspection observation Chapter G- No.3(b)(v) below.

The Life Insurer's contentions that RMWM has been paid for rendering training, marketing support and research services is not acceptable as RMWM a wealth management company and is not engaged in the business of offering training, marketing support and research services. As such, payments made to RMWM cannot be considered as independent and distinct from referral arrangement even though the insurer has two different agreements. The Insurer's claim that activities of RMWM do not fall under the purview of outsourcing guidelines is also not acceptable. The Insurer has violated the reporting requirements under Clause 11 of Outsourcing Guidelines. Regulatory action for the same is mentioned in the subsequent paragraph.

Chapter G-Observation No.3(b)(v)

An agreement with M/s. Religare Marketing Services Pvt. Ltd, (RMSPL) a group entity was entered into for services including database acquisitions and data mining and huge payouts have been made. The details of agreements, payments made thereof were also not reported as prescribed under Outsourcing Guidelines, 2011

Violation of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010 and Clause 9.15, 9.2 and 11 of Outsourcing Guidelines IRDA/LIFE/CIR/GLD/013/02/2011 dated 01/02/2011.

Insurer's submission:

Services hired were to do promotional event in many cities across India by putting up temporary kiosks at place like shopping malls, petrol pumps, housing societies, etc. The above activities are not in the nature of database acquisition and database mining. Such activities are not covered under outsourced activity as it does not fall under the activities

explicitly referred to in Regulation 3 and Regulation 4 (Annexure I and Annexure II) of Outsourcing Guidelines.

Decision:

Based on a review of the documents, the Insurer's submissions that the arrangements with the "service provider was not in the nature of database acquisitions and data base mining", have been considered. As such, the charges of violation of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010 are not being pressed.

Having regard to the facts of the inspection observation where payments have been made to the group entities (RMWM and RMSPL) for an outsourced activity without reporting the same to the Authority in violation of clause 9.15 of the outsourcing guidelines, the Authority in exercise of the powers vested under section 102 (b) of the Insurance Act, 1938 imposes a penalty of ₹ 5 lakh (Rupees Five Lakh).

The Authority also notes that the Insurer has not reported many outsourced activities as observed under Charge 15, 16, 17 and 21. These activities were required to be reported under Form 'A' to be filed with the Authority. The Life insurer has therefore violated clause 11 of Outsourcing Guidelines, 2011. It is observed that the life insurer has not reported seven agreements on outsourcing of services to various entities. The Life Insurer is directed to be vigilant in complying with outsourcing guidelines, 2011 hereinafter.

Charge 22

Payments towards Marketing Activity Services were paid to M/s The Nasik District Central Co-operative Bank Limited, during the intervening period when the entity was not engaged as the referral partner.

Violation IRDA Circular on Referrals IRDA/Cir/004/2003 dated 14/02/2003 and IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010.

Insurer's submission:

The Life Insurer has submitted that the erstwhile referral agreement with Nasik District Central Co-operative Bank Limited (NDCC) was terminated on 10-8-2010 in line with the requirements of Sharing of Database Regulations. The entity was approved as a referral entity and a referral agreement was entered into on 24-05-2011. For the intervening period, NDCC had allowed the Life Insurer to put banners at their branches, give information to their customers in relation to various policy servicing aspects, toll free number etc.

Decision:

It is observed that Insurer has not taken prior approval of the Authority for continuation of the arrangement with the NDCC for the period from 01/07/2010 to 10/08/2010, in violation of Regulation 11(14) of the Sharing of Database Regulations. The Insurer's contention that the agreement with NDCC was terminated on 10th August 2010 in response to IRDA's circular dated 9th August 2010 is not acceptable as the said circular was merely by way of a clarification about Regulation 11 (14) and was not a new stipulation.

A review of the payments to NDCC for marketing activities (in the intervening period of approval as 'referral partner' under the Regulations on Sharing of Database) are observed to be at the same rate that was made prior to commencement of the Sharing of Database Regulations.

The Insurer's contentions that the payments in the interim period were for marketing activities is also not acceptable. Agreements with partners for marketing activities appear to be entered on *ad hoc* basis, giving scope for discretion to remunerate intermediary partners.

The Insurer is hereby directed to lay down prudent governance mechanism as regards having tie-up with third party entities for various business activities. Further, a penalty of ₹ 5 lakh (Rupees Five Lakh) is imposed for violation of IRDA (Sharing of Database for Distribution of Insurance Products) Regulations, 2010.

Charge 23

On examination of the payment vouchers, it was observed that various contests were floated to insurance brokers and employees of the brokers were rewarded over and above the commission/brokerage paid.

Violation of Regulation 19 of IRDA (Insurance Brokers) Regulations, 2002

Insurer's submission:

The Life Insurer submitted that the awards distributed in the contest were towards appreciation to a particular individual for helping the Life Insurer achieve new business targets. Hence, in the view of the Life insurer, it is a business expense incurred in the normal course of business. The trips are for training and education of staff of Broker wherein the Life Insurer's employees also accompany them to impart training on enhancing skills required for conduct of business and further contends that as per their understanding the contest payout cannot be termed as commission.

Decision:

The Life Insurer's submissions that the payments to employees of brokers cannot be termed as commission, and that such payments fall within the overall business expenditure, is not acceptable. The Brokers are representatives of the clients and the Insurer should not have entertained such contests and remunerated them for their performance. The Life Insurer has violated the provisions of Regulation (19) of IRDA (Insurance Brokers) Regulations, 2002.

Having regard to the facts of the case and the gravity of the violations committed by the Insurer, the Authority, in exercise of powers vested under section 102(b) of the Insurance Act, 1938 imposes a penalty of ₹5 lakh (Rupees Five Lakh) for the said violation.

The Life Insurer is further directed to recover the excess payments made to the brokers in violation of Regulation (19) of IRDA (Insurance Brokers) Regulations, 2002.

The regulatory action taken as above is without prejudice to any action which may be initiated against the concerned brokers who have also violated the code of conduct as mandated by the IRDA.

Charge 24

It is noticed that there are no systems in place to call back/destroy the prevailing advertisements from the Branches, Intermediaries when the said advertisements are to be withdrawn.

Violation of Clause 6 of Corporate Governance Guidelines, 2009

Insurer's submission

The Life Insurer has submitted that a manual process to call back the withdrawn advertisement is in place from 15th November 2012. This area is covered in all internal audits covering branches mandatorily.

Decision:

In view of the corrective steps taken by the insurer, the charges are not being pressed. However, the life insurer is advised to ensure appropriate internal controls to ensure that the risk management and compliance policies are observed as required under the Corporate Governance guidelines, henceforth.

In conclusion, as directed under the respective charges, the penalty of ₹40 lakh (Rupees Forty Lakh Only) shall be remitted by the Life Insurer by a crossed demand draft (DD) drawn in favour of Insurance Regulatory and Development Authority, payable at Hyderabad within a period of 15 days from the date of receipt of this Order. The penalty amount shall be debited to shareholders account. The DD may be sent to Dr. (Ms) Mamta Suri, Sr. JD (Inspection & Compliance) at the Insurance Regulatory and Development Authority, 3rd Floor, Parishrama Bhavan, Basheer bagh, Hyderabad 500 004.

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

Life insurer is further advised that a follow up inspection would be conducted to re-confirm various confirmations/assurances given by the insurer during the course of the personal hearing and various submissions made, the details of which will be conveyed to the life insurer separately. All expenses incurred in hiring of the external agencies for this purpose shall be borne by the life insurer.



(T S Vijayan)
CHAIRMAN

Place: Hyderabad

Date: 17th September 2014

