



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

Title:Penalty

Reference No.:

Date:09/02/2011

M/s CHOLAMANDALAM Ms GENERAL INSURANCE COMPANY Ltd

ORDER
OF
THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY
AGAINST
M/s CHOLAMANDALAM Ms GENERAL INSURANCE COMPANY Ltd.

The Insurance regulatory and Development Authority (herein after referred to as “the Authority”) issued a certificate of registration bearing No.115 to Cholamandalam Ms General Insurance Company (herein after “the Company”) on to carry on business of General Insurance in India in terms of Section 3 of the Insurance Act,1938 (herein after referred to as “the Act”) . The said certificate of registration is further renewed on .In terms thereof the company was subject to the terms and conditions of the certificate of registration and was also required to abide by the provisions of the Insurance Act,1938,the IRDA Act, 1999, particularly the Insurance Regulatory and Development Authority (Licensing of Corporate Agents) Regulations, 2002 (herein after referred to as ‘the Regulations’) and other directions issued by the Authority from time to time by way of circulars and/or guidelines particularly, Circular no.017/IRDA/Circular/CA Guidelines/2005 dated 14th July 2005 (herein after referred to as ‘the Guidelines’)

The Authority received information that the Central Bank of India(here in after “the corporate agent”) while its agency was in force with New India Assurance Co, has publicized through news papers and on its website the RFP (Request for proposal) for Corporate Agency tie-up with Non-Life Insurers on 14.08.2009, inviting technical offers and commercial offers from General Insurance Companies. The Company has responded to the RFP floated by the corporate agent and stood as “L1”. The Authority conducted onsite Inspection of the Company.on17th March, 2010 to examine whether the activity of calling for technical and financial bids on premiums, commissions, extra payouts violates Regulations, Guidelines and Circulars referred above.

The Authority has communicated findings of Inspection to the Company on 19th April, 2010 and sought comments. The Company has submitted comments on 7th May, 2010 The Authority has examined the reply and issued Show Cause notice to the Company on 4th June, 2010. The Company submitted reply in response to Show Cause notice on 24th June, 2010 wherein the company requested the Authority to provide them with an opportunity to present their case personally. Accordingly the Authority conducted personal hearing of the company on 6th October, 2010. On examination of the reply submitted in response to Show Cause notice and minutes of personal hearing the following charges made against the Company are found to have been established for the reasons mentioned there under.

Charge 1 : Non compliance of point no.10 of Guidelines issued on Licensing of Corporate Agents which stipulates that if a corporate agent terminates its agreement with one insurer and before entering into corporate agency agreement with another insure it has to seek specific written approval of the Authority.

The company contended that they have executed MOU with central bank with an intention to enter into corporate agency agreement after completing all formalities specified under relevant IRDA Regulations and they submitted to the Authority that no agency relationship as is contemplated above cited provisions of guidelines is established with the Bank. However, it is observed that the Corporate Agent has sent letter of termination to New India Insurance on 9th Nov, 2009. It is pertinent to mention that the Company has entered into an MOU on 06.11.2009 with the Corporate Agent (i.e.) prior to the said letter of termination. Besides MOU, the Company has also entered into the said agreement on 31.12.2009. Point No. B of page 3 of this agreement provides that Chola MS shall contact such customers of Central Bank either directly or through its agent or through the **staff of Central Bank at branches** for soliciting insurance business. This clause substantiates the charge that the Company intended to solicit business despite the fact that the Corporate Agent had an existing arrangement with New India Assurance Company. It is also pertinent to mention that the said agreement provided a compensation structure which is equal to the maximum IRDA stipulated commission for each line of business. Hence it is clear that the said agreement is not an

interim agreement but it is in the nature of corporate agency agreement. The bank has also received the remuneration from Chola MS under this agreement for referring such customers to the company. In view of this the contentions of the the company are not tenable and violation by the insurer of Point No. 10 of "Guidelines on Licensing of Corporate Agents" issued by the Authority vide Cir. No. 017/ IRDA/ CIR/ Corp. Agents, dt. 14.07.2005 is established.

Charge 2: The Insurer should not pay any amount other than permitted agency commission to the corporate agent as per point no.21 of Guidelines issued on Licensing of corporate agents vide Circular dated 14th July,2010

The company contended that they had only responded in the format devised by Central Bank of India and confirms that they have not made any payment for marketing /man power support. However it is observed that the company has given in writing to the corporate agent that it will pay expenses incurred towards marketing, manpower, ATM usage, pricing discounts as well as upfront payment of Rs.10 Crores for providing information about Bank's customers, use of infrastructure and other facilities. It is inappropriate that the company committed to pay for information about Bank's customers to a prospective corporate agent whereas payment if any should have been for business procured as and when the Bank becomes an Agent of the company.

Charge 3: Violation of Regulation 10(1)(vi)(ii) of the Insurance Advertisement and Disclosure Regulations, 2000 which permits a third party to share information about its members and collect compensation based on sales. Payment of compensation for solicitation by third party entities is not envisaged in this provision

The Company contended that the interim agreement relates to information being provided by the Bank and confirms that payments were made on the basis of sales conversion generated through such data base. While the company clarifies that the agreement envisages only sharing of client information, the corporate agent informed all its offices to refer non life insurance business to the Company. This is in violation of the above referred regulation which stipulates only sharing of data and not referrals.

Having regard to the facts of the case and the gravity of the violations deliberately committed by the Corporate Agent, the Authority in exercise of powers vested in it under section 102 of the Insurance Act, 1938 passes the following Order.

"The company be imposed a penalty of Rs.500000.00 for violating provisions of Regulations, Guidelines, and circulars referred above and is hereby advised to remit the requisite amount within 7 days if receipt of this Order".

Further The Company is directed not to pay or offer to pay any extra payouts which are not provided for in the Insurance Act, 1938, Regulations made there under, Guidelines and Circulars issued in this regard from time to time.

PLACE: HYDERABAD
DATE : 09.02.2011

J.HARINARAYAN
CHAIRMAN