



Ref: IRDAI / Enf / ORD / ONS / 030 / 01 / 2020

**Order in the matter of BAJAJ ALLIANZ GIC Ltd**

**Based on the**

(i) Show Cause Notice (hereinafter referred to as "SCN") reference No.IRDA/Enf/SCN/2019/NL/BAGICL\_Insp.rpt dated 18<sup>th</sup> July, 2019 in connection with the on-site inspection conducted by the Insurance Regulatory and Development Authority of India (herein after referred to as 'the Authority' or 'IRDAI') during 27<sup>th</sup> January to 5<sup>th</sup> February,2016.

(ii) Bajaj Allianz GIC Ltd (hereinafter referred to as "Bajaj Allianz" or as "General insurer") response dated 7<sup>th</sup> August, 2019 to the aforesaid SCN.

(iii) The submissions made by general insurer during the Personal Hearing held on 10<sup>th</sup> October, 2019 at 3.30 PM, taken by the Chairman of the Authority at its office at Hyderabad and subsequent submissions made by the general insurer vide email dated 1<sup>st</sup> November, 2019.

**Background:**

2. The IRDAI had conducted an onsite inspection of Bajaj Allianz GIC Ltd during 27<sup>th</sup> January to 5<sup>th</sup> February, 2016. The inspection report, inter alia, revealed certain violations of provisions of the Insurance Act, 1938, Regulations, Guidelines and various circulars issued there under.

3. A copy of the inspection report was forwarded to Bajaj Allianz GIC Ltd on 20<sup>th</sup> April, 2017 seeking their response. On examining the submissions made by Bajaj Allianz GIC Ltd vide letters dated 15<sup>th</sup> June,2017, 20<sup>th</sup> October, 2017 and 29<sup>th</sup> November, 2017, a SCN was issued on 18<sup>th</sup> July, 2019, which was responded to by the general insurer vide letter dated 7<sup>th</sup> August, 2019. As requested by the general insurer therein, a personal hearing opportunity was granted on 10<sup>th</sup> October, 2019.

4. Mr. Tapan Singhel, MD& CEO, Mr.Milind Choudhari, CFO, Mr. Sasi Kumar Adidamu, CTO, Mr.Onkar Kothari, CCO and Mr.Sameer Pawardhan, Asst CS were present in the personal hearing on behalf of the general insurer. On behalf of the Authority, Mr. Prabhat Kumar Maiti, GM (Enforcement) and Mr. K.Sridhar, AGM (Enforcement) were also present.

5. The submissions made by the general insurer in reply to the SCN and those made during the personal hearing on 10<sup>th</sup> October, 2019 and submissions made post personal hearing vide letter dated 1<sup>st</sup> November,2019 have been considered by the Authority and on that basis the decision on each of the charges is given as under.

## **6. Charge no.1**

### **Violation of**

- Guideline 8, 11 & 26 of File and Use guidelines ref. 021/IRDA/F&U/SEP-06 dated.28.9.2006 and Circular no.IRDA/NL/Cir/F&U/003/01/2011 dated 6<sup>th</sup> Jan, 2011.
- Regulation 3(2) of IRDA (Protection of Policyholders' Interests) Regulations, 2002 by providing incorrect information to the prospect on the discount offered and chargeable premium.

## **7. Inspection observation:**

- a) On examination of underwriting related documents of sample policies, it was found that insurer had deviated from the approved rates as specified in Form 'A' approved by the Authority. Details as below:
- i) Policy no. OG-15-1901-4014-00000198 – My Home Insurance: Insurer in its submission accepted on deviation in rates from F&U guidelines by charging excess premium than arrived rate.
  - ii) Policy no's OG-15-1801-9970-00000001 and OG-15-1801-9970-00000014– of Film Insurance:
    - The internal tariff rating sheet shows that the rating filed and approved is with 10% excess, whereas insurer offered policy with 5% excess thereby deviating from rating structure approved under F&U guidelines by Authority.
    - The rate charged for each of the risk covered under the package cover is either below or above the minimum and maximum internal tariff rating.
    - The approved package policy doesn't include coverage for 'hospitalization coverage', whereas the policy issued by insurer has covered this risk too.
    - The F&U approval was taken from Authority for using product name as 'Entertainment Package policy', whereas product name was referred as 'Film insurance' in the policy document.
- b) On examination of sample policy documents and related papers of Machinery Breakdown policies, it was found that insurer had deviated from the terms approved by the Authority, by giving heavy discounts to the clients. Further, the Insurer failed to provide any claims statistics and underwriting report to substantiate the level of discounts applied to sample examined policies.
- Maximum discount permitted for each identified risk improvement feature as per F&U approval shall be a maximum of 10%, however discount applied for favorable past losses data is 30% (policy no's OG-15-2203-0420-00000017 and OG-15-2201-0420-00000006).
  - In the quote of Policy no. OG-15-1704-0420-00000002 provided by insurer it is noted that the insurer has offered commercial discount of 26% without referring to any risk feature in the quote.



## **8. Summary of Insurer submissions**

Insurer submitted that the policies referred were miscellaneous line of business insurance policies.

a) In the initial submission w.r.t Policy no. OG-15-1901-4014-00000198 of My Home Insurance, insurer stated that the rate charged was slightly higher than approved rate. However, in response to the show cause notice insurer clarified that the rate charged by the company was in accordance with the rates filed with the Regulator and has provided the calculation in arriving to the premium charged. Insurer clarified in the revised submission that no long term discount was applicable on terrorism premium and also discount was given to insured on opting for voluntary excess, as per filed rates only.

b) Submission with regard to Film Insurance policies :

- The premium charged was as per approval under F&U guidelines. As per underwriting guidelines of the company, the Head office has got the authority for variance upto 20%, whereas discount allowed was only 4.7%.
- Insurer agreed that the excess allowed was 5%, as against 10% filed with the Authority and stated that the same had to be agreed upon to match the offering from competition. By reducing the deductible percentage, the insured was able to secure better protection and the same has not resulted in deviation from the premium rate that the company would have charged if the voluntary excess was 10% and the premium that the same has been actually paid with voluntary excess of 5%. However, the observation of the Authority is noted and would be more careful in future by sticking to filed conditions about excess.
- In the filed wordings it is mentioned that the coverage, 'Medical Expenses Reimbursement' is available to the customers and the same can be in any form either as OPD or IPD.
- In the sample cases examined by Authority, the words 'Film Insurance' were included on the request of the insured as he had the requirement to further submit the said policy for some purpose. It may be noted that film insurance is only a category, on same lines as events and exhibitions, which was covered under this policy. In support, the company has submitted few sample policy copies issued before to and after the policy referred in charge to establish that it was not a practice but one-off instance to issue policy with name 'Film Insurance' instead with 'Entertainment package policy'. The company takes note of observation and assures that the same has neither repeated in the past nor will it be done in the future.

c) Submission with regard to Machinery Breakdown policies:

The insured were corporate clients having engaged experienced intermediaries who were well aware of the standard market practices to advise insured. In the sample cases referred, the intermediaries have specifically requested to submit quotation based on erstwhile tariff rates for easy comparison. There was no intention at our end to provide incorrect information or to misguide the prospect and was done with the objective of presenting clearer and commensurate comparison of quotes along with other insurers.



The discounts allowed were in line with F&U guidelines and based on risk improvement feature for favourable claims experience. There were no claims during the past three years in the referred policies and the discount offered was within the maximum 10% allowed by Authority.

#### **9. Decision on charge no.1**

- a) In respect of premium calculation of sample examined policy of 'My Home Insurance policy' insurer has provided the premium calculation sheet and confirmed that the rate charged was in line with the rating methodology approved by Authority under F&U guidelines. Considering the confirmation of the general insurer, the charge is not pressed. The general insurer is advised to exercise due diligence to ensure compliance to the rating methodology approved under File & Use procedure.
- b) With respect to two sample policies of 'Entertainment Package policy' referred in the charge, insurer has provided documents to establish that the premium rate charged and hospitalization coverage provided in the two sample policies was in accordance with the File & Use document. In respect of issuing policy with lower excess, insurer submitted that the action of the company helped the insured to get better protection with no excess premium being charged. However, the Insurer must note that once a product is approved under File and Use procedure, it is the duty of the insurer to abide by the approved File and Use. In case the Insurer wants to modify the contents of the approved product they should file for modification of the product. Only because the modification can be proved to be beneficial to the Insured, is not a ground for absolving the insurer from the File and use violation. The Insurer is warned for the practice followed by them and is directed to ensure strict compliance to the rating methodology, product features and terms and conditions approved under File & Use guidelines at all times.

With regard to the product name in the two policy documents being referred as 'Film Insurance', insurer, in its first submission to the observation has not agreed of issuing any policy with such name. However, in response to the show cause notice, insurer accepted the lapse and requested to consider it as a one-off instance and informed that it was done on the request of the insured.

The trade name of the product is filed and approved under the File & Use procedure. Hence a product which is sold with a trade which is not approved under the File & Use procedure is treated as if that is sold under an un-approved product.

Thus insurer has violated the File and Use guidelines by issuing two policies with a product name which is different from that approved under File and Use procedure. Hence, the Authority as per the powers vested in it under Section 102 (b) of Insurance Act, 1938, **a penalty of Rs.2,00,000** (i.e., Rs.1,00,000 for lapse noticed in each of the two policies) is imposed on the general insurer. The general insurer is directed to ensure non-recurrence of such lapses.



- c) On the insurer submission of issuing the quote with erstwhile tariff rate on a request from the intermediary for its ease of comparison with the quotes of other insurers, the insurer is informed that it is the job of the broker to compile, compare and advise the client/prospect on appropriate insurance cover and terms out of the available options. Providing a quote with erstwhile tariff rates would give a misleading picture to the prospect. The confirmation given by the Insurer that the rating structure followed was as approved under File & Use procedure and the quote with erstwhile tariff rates was being issued to the broking firm and not to the client, is taken note of. However, the insurer is advised to give a clear and correct information to the prospect at the point of sale and to rate the risks as per the rating structure approved under File and Use guidelines.

#### 10. **Charge no.2**

##### **Violation of**

- Guidelines 8.4/5 and 9.9 of outsourcing guidelines dated 1<sup>st</sup> February, 2011 & on engaging a licensed entity for outsourcing activities, making payouts and not properly examining the outsourcing agreements.
- Guidelines 6 of Corporate Governance guidelines circular no. IRDA/F&A/Cir/025/2009-10 dated 05/08/2009 on not having proper internal control mechanism.
- Guideline 21 of circular no.017/IRDA/Circular/CA Guidelines/2005 dated 14-07-2005.

#### 11. **Inspection observation:**

Insurer entered into infrastructure agreements with various vendors. A review of the text / wording of sample agreements revealed that the role of the other party is not clearly defined. The charges payable in respect of usage of different infrastructure facilities are also not defined. The insurer in the agreement with M/s Express BPO services has termed the vendor as a motor dealer and the standard services which were part of motor dealer agreement were also referred in this agreement too, whereas the vendor has been in the line of rendering BPO services. Insurer has also entered into an agreement with M/s TV Sundaram Iyengar & Sons, who is a licensed corporate agent to another general insurer.

#### 12. **Summary of Insurer submissions:**

The general insurer submitted that they do use the space, infrastructure, etc for the insurance business happening from the location of the motor dealers and have agreed to pay infrastructure fees to the automotive dealer for use of infrastructure and facilities at its various premises / offices / showrooms in India. The payments made were prior to implementation of Motor Insurance Service Providers (MISP) Guidelines when the said entity was neither an agent of the company nor insurance intermediary or MISP. The said entity was not soliciting or procuring business for the company. The arrangement was for better service to the policyholders in terms of policy issuance and claims.



Further, insurer submitted that the Authority has previously examined the issue of payments in a separate matter and issued show cause notice dated 19<sup>th</sup> April, 2017 wherein the said issue was raised, followed by an order dated 6<sup>th</sup> December, 2017. Thus, the issue already been decided and closed by the Authority, insurer stated that according to principles of prohibition of double jeopardy, the issue may be dropped.

The agreement with Express BPO Services Ltd was terminated on 29<sup>th</sup> November, 2016 itself even before to the inspection observation. The Agreement with TV Sundaram Iyengar & Sons was terminated, after issuance of MISP guidelines which were effective from 1<sup>st</sup> November, 2017.

While the contract that we enter into with the dealership is standard, we utilize the specific facility, service, support that we seek separately from each of the dealerships. At the same time, drafting specific contracts for each entity happens to be equally cumbersome. Committing a fixed fee without generating the business from a location is not just commercially unviable option for us, but it would be financially imprudent as well. The utilization of various facilities and infrastructure at each of the dealerships is closely monitored and controlled.

Although the clauses in the agreement with Express BPO Services have some references to "motor dealer", the same is for sharing of infrastructure with us. The agreement format used for entering in to arrangement with Express BPO Services is same as the format used for agreements with motor dealers, as the purpose of agreement was similar, i.e. availing infrastructure facilities. The reference to term "motor dealer" is descriptive in nature as alias or substitute for the party's name, which is a common practice.

### 13. Decision on Charge no.2

a) The insurer has to be vigilant with the agreement clauses/wordings before entering into any an agreement with a third party. Though there may be standard wordings for the outsourcing agreements to be entered, insurer's operating offices need to ensure whether such standard agreement wordings fit to the purpose for which the agreement needs to be entered. Hereinafter, the insurer is advised to have proper internal control/audit mechanism to ensure compliance of Outsourcing agreement terms to ensure compliance with the IRDAI (Outsourcing of activities by Indian Insurers) Regulations, 2017.

b) On insurer engaging a corporate agent tied with another general insurer as a service provider, insurer attention is drawn to Guideline 8.4/5 and 9 of Outsourcing guidelines wherein, it is clearly indicated that insurer shall not engage a regulated entity to perform any outsourced activity other than those permitted by respective regulations governing their licensing and functioning. Since, an Order already been issued on the payouts made to vendors during the FY 2014-15, the insurer is advised to ensure compliance to Regulation 14 (vi) of IRDAI (Outsourcing of Activities by Indian Insurers) Regulations, 2017 before entering into a service agreement.



14. **Charge no.3**

**Violation** of Regulation 9 (5&6) of IRDA (Protection of Policyholders' Interests) Regulations, 2002.

15. **Inspection observation:**

During the course of inspection, several instances of delay in payments were noticed where either the claims have been settled with delay or yet to be settled even after the expiration of the period of 60 days from the date of submission of final survey report.

16. **Summary of insurer submissions:**

The insurer submitted that the delay in getting final documents from insured like final Invoice, NEFT documents, Consent & Financiers NOC, consumer and legal cases reopened and paid and closed on payment of award etc. have contributed to the delay in settlement. Further, in large number of cases, in the report submitted during inspection, wrong date was captured while the report was prepared. The same has been corrected and revised data has been submitted to the Authority. In support of submission, the insurer has provided details of 25 claims as sought by the Authority. The company assures that it is extremely vigilant in processing the claim payments once all the requisite documents are received.

17. **Decision on Charge no.3**

The submission of the General Insurer that an inadvertent operational lapse lead to submission of erroneous data to inspection team, is taken note of. However, the general insurer is advised to ensure compliance to

- Regulation 13(3) and 15(1) of IRDAI (Protection of Policyholders' Interests) Regulations, 2017 by keeping informed to the claimant of all the mandatory claim requirements at the time of receipt of claim form and to collect requisite contact details for follow-up.
- Regulation 15(4) of IRDAI (Protection of Policyholders' Interests) Regulations, 2017 by following up with claimants through intermediary, e-mail, mobile SMS and any other channel on the pending requirements.

18. **Summary of Decisions:**

Charge No.	Violation of Provisions	Decision
1	Guideline 8, 11 & 26 of File and Use guidelines ref. 021/IRDA/F&U/SEP-06 dated.28.9.2006.	Penalty of Rs.2 lakhs and advisory
2	Guidelines 8.4/5 and 9.9 of outsourcing guidelines dated 1 <sup>st</sup> February, 2011.	Charge not pressed and advisory
3	Regulation 9 (5&6) of IRDA (Protection of Policyholders' Interests) Regulations, 2002.	Charge not pressed and advisory




19. i. The penalty of Rs 2,00,000 shall be remitted by the insurer through NEFT / RTGS (bank account details will be communicated separately) within a period of 15 days from the date of receipt of this Order. An intimation of remittance of penalty shall be sent to Shri Prabhat Kumar Maiti, General Manager (Enforcement), IRDAI, Sy.no.115/1,Financial District, Nanakramguda, Hyderabad-500032.

The Order shall be placed before the Board of the general insurer in the upcoming Board Meeting and the general insurer shall provide a copy of the minutes of the discussion.

- ii. The general insurer shall submit an Action Taken Report to the Authority on direction given within 90 days from the date of this Order.

20. If the general insurer feels aggrieved by this Order, an appeal may be preferred to the Securities Appellate Tribunal as per the provisions of Section 110 of the Insurance Act, 1938.

Place: Hyderabad  
Date: 24-01-2020

  
24/1/20  
(Dr. Subhash C. Khuntia)  
Chairman