



Ref: IRDAI/NL/ORD/MISC/160/09/2019

13th September, 2019

Order in the matter of M/s Bajaj Allianz General Insurance Company Ltd

Based on the

- (i) Show Cause Notice (hereinafter referred to as "SCN") reference No. IRDAI/NL/BAGICL/SCN/297/2018-19 dated 31st December, 2018 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') from 12th to 14th February, 2018.
- (ii) M/s. Bajaj Allianz General Insurance Co Ltd's (hereinafter referred to as "BAGICL" or "Insurer") response dated 4th February, 2019 to the aforesaid SCN.
- (iii) The submissions made by BAGICL during the Personal Hearing held on 5th April, 2019 at 3.30 PM, granted by the Chairman of the Authority at its office at Hyderabad.
- (iv) Further submissions/data submitted by BAGICL post personal hearing vide letter dated 24th April, 2019 and email dated 6th August, 2019.

Background:

2. IRDAI had conducted an onsite inspection of M/s. Bajaj Allianz General Insurance Company Ltd from 12th to 14th February, 2018. The inspection report, inter alia, revealed certain violations of provisions of the Guidelines on Motor Insurance Service Provider (hereinafter referred as MISPG) issued by the Authority vide IRDA/INT/GDL/MISP/202/08/2017 dated 31st August, 2017 and circulars thereunder, provisions of Insurance Act, 1938, Regulations, Guidelines issued thereunder.

3. A copy of the inspection report was forwarded to BAGICL on 16th April, 2018 seeking their response. On examining the submissions made by the Insurer vide letter dated 29th May, 2018, SCN was issued on 31st December, 2018, which was responded to by BAGICL vide letter dated 4th February, 2019. As requested for by BAGICL therein, personal hearing was granted to the Insurer on 5th April, 2019.

4. Mr. Tapan Singhel, Managing Director & Chief Executive Officer, Mr. Milind Choudhari, CFO, Mr. Gurneesh Khurana, Head of Motor Business and Mr. Onkar Kothari, Company Secretary & Compliance Officer were present in the personal hearing on behalf of BAGICL. On behalf of the Authority, Dr. Subhash Chandra Khuntia,

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Chairman, Mr. Randip Singh Jagpal, CGM (Intermediaries), Ms. Yegnapriya Bharath, CGM (NL), Mr. K. Mahipal Reddy, DGM (NL), Mr. B. S. Venkatesh, Manager (Intermediaries), Mr. A. Rama Sudheer, Manager (NL) and Mr. Sumit Arora, Assistant Manager (F&A – NL) were also present.

5. The submissions made by BAGICL in its letter dated 4th February, 2019, during the personal hearing on 5th April, 2019 and those made post personal hearing vide letter dated 24th April, 2019 and email dated 6th August, 2019 have been considered by the Authority and on that basis the decision on each of the charges is given as under:

Charge no.1

6. **Violation of** Guideline 5 (c) of MISPG by not issuing any appointment letters to the MISP's sponsored by the Insurer.

The Insurer has not issued appointment letters to sponsoring MISPs. In reply to another finding, the Insurer stated that they did not appoint motor dealers as MISP as such. It was only "enrollment" as MISP, pending compliance with other requirements of the MISP guidelines. However, the said MISPs solicited Motor Insurance business during this period.

Summary of submissions

The Insurer submitted that the practice of distribution of motor insurance policies via Motor Dealers is a long standing practice - prior to the MISPG coming into effect. Insurers have arrangements with Motor Dealers in the form of Infrastructure sharing, Consultancy, etc. Since MISPG came into effect from 1st November, 2017, all these arrangements had to be cancelled and necessary steps taken to comply with the MISPG. Due to paucity of time from the issuance of the MISPG to its implementation, the Insurer had enrolled the dealers based on information provided in the enrollment form and on submission of requisite documents, appointment letters were issued. The Insurer vide letter dated 24th April, 2019 has submitted the details on issuance of appointment letters.

Decision on Charge no.1

The MISP Guidelines came into effect from 1st November, 2017. The appointment letters to MISPs sponsored by Insurer are issued after training and examination to them. It is observed from the Insurer's data that such appointment letters were issued even in the month of March 2019. The delay in issuance of appointment letters ranges from 10 days to 522 days.



Having noted that the Insurer has taken necessary steps subsequently for the issuance of appointment letters to the sponsored MISPs, the Insurer is hereby **advised** to ensure strict compliance of Guideline 5 (c) of MISPG.

Charge no.2:

7. **Violation of Guideline 5 (a)** of MISPG– The MISP shall be sponsored by either Insurer(s) or an Insurance Intermediary.

It is observed that a few MISPs are sponsored by both Insurer and Insurance Intermediary and it is noted that the Insurer had solicited business without carrying out any due diligence initially while registering the entities as MISPs.

Summary of submissions

The Insurer expressed that MISPG came into effect from 1st November, 2017 and the IIB portal was operative from the month of November, 2017. However, Motor Dealers were historically doing business with multiple entities. When the Insurer was trying to upload the documents on IIB portal, the portal did not show any error and simultaneously, the Intermediaries (Brokers) also uploaded the dealers' documents on IIB portal without confirmation from the dealers about their willingness. Further, the Insurer submitted that these are transitional issues which normally would take about 6 months for a change of this significance.

The Insurer confirmed that the list of common MISPs of around 59 were taken up with IIBI and the duplicity was resolved.

Decision on Charge no.2

In view of the Insurer resolving the issue of common MISPs, the Insurer is **advised** to ensure that the entities are sponsored either by Insurer or an Insurance Intermediary but not by both.

Charge no.3:

8. **Violation of Guideline 7 (b)** of MISPG – training and examination of Point of Sales Person to the extent specified by the Authority.

The Insurer has solicited Insurance business and distribution fee was paid prior to completion of training and examination. However, it is observed that the business was placed without fulfilling training and examination requirements. The delay in completion of training and examination of Point of Sales Persons ranges from 1 day to 522 days.



Summary of submissions

The Insurer submitted that in order to ensure compliance requirements of the MISP Guidelines in all respects, they only “enrolled” the motor dealers as their “MISP” wherever they expressed the desire to get so enrolled.

The Insurer has stated that none of the motor dealers enrolled as MISPs, while pending compliance fulfillments, was paid any distribution fee in respect of business sourced from their dealerships. The Insurer submitted the updated list of MISPs along with details of their designated persons, dates of completion of their training and passing the examination vide letter dated 24 April, 2019.

Decision on charge no.3

Taking note of the Insurer's compliance with completion of training and examination of Point of Sales Person of the sponsored MISPs now, the Insurer is hereby **issued an advisory** to ensure strict compliance of Guideline 7 (b) of MISPG.

Charge No. 4

9. Violation of **Guideline 15 (13)** of MISPG– MISP database- Every Insurer and insurance intermediary shall upload on the Insurance Information Bureau of India (IIBI) portal, at the end of the day, details of MISPs engaged by them.

The Insurer has appointed 1011 MISPs whereas as per the details placed on IIBI portal on 27th June, 2018 only 597 MISP details were uploaded.

Summary of submissions

The Insurer submitted that the details of MISPs, as and when the compliance fulfillment took place, have been uploaded on the IIBI portal from time to time.

The Insurer vide letter dated 24th April, 2019 has submitted the proof of submission of data in IIBI website.

Decision on Charge no.4

It is observed from the data that the Insurer has uploaded the data on IIBI portal much later to the training and exam date which was ranging from 1 day to 523 days. It is noted that the MISP data is now uploaded on IIBI website. The Insurer is **advised** to ensure compliance with Guideline 15 (13) of MISPG at all times.



Charge 5

10. **Violation of Guideline 4 (a)** Legal structure: Any automobile dealer as defined in guidelines 3 (c) of MISP Guidelines and one who does not attract any of the disqualifications as laid down in Section 42 of the Insurance Act, 1938 shall be eligible to become a MISP. It is observed that the Insurer has issued licences in names that do not exactly match with the names of the authorized automobile dealers.

The Insurer has submitted that the names of the MISPs are taken from the existing database under the old arrangements.

Summary of submissions

The Insurer submitted that the names of the MISPs, are basically the motor dealers with whom they have been dealing in the past as well. Their names from the existing database of parties were migrated to the new list of MISPs as and when the motor dealers were appointed as MISPs. Accordingly, in case the name of the motor dealer was not mentioned fully or was incorrect in the list existing before the inception of MISP Guidelines, the same would invariably appear in the same way in the new list of MISPs.

The Insurer has stated that the names of all MISPs were checked with Certificate of Incorporation in case of registered companies or PAN Cards or GST Registration certificates and the names were corrected.

Decision on Charge no.5

The Insurer admitted that the difference in name was a mistake in all cases. The Insurer has confirmed that such cases have been rectified. Taking into account the above corrective steps, the Insurer is hereby **advised** not to commit such lapses hereafter and strictly comply with Guideline 4 (a) of MISPG.

Charge No. 6

11. **Violation of Guideline 5 (b)** of MISPG- on receipt of request from the MISP, the sponsoring entity shall verify the eligibility conditions given in guideline 4 of MISPG.

The Insurer has not submitted proof of documents confirming that the main objects of registered MISPs have, in its objects or in its deed or any other similar document, distribution and servicing of motor insurance policies including add-ons.



Summary of submissions

The Insurer submitted that a relevant question about such a clause in the Memorandum of Association was included in the enrolment form which was used at the inception of the MISP Guidelines. Insurer vide letter dated 24th April, 2019 submitted sample application forms showing that the objects / deed or any other similar document includes the servicing of motor insurance policies

Decision on Charge no.6

The charge was based on the Insurer's failure to submit the proof of documents to confirm compliance with the said MISPG. In view of the Insurers submission that the enrollment form was used since inception and the documentary proof is now submitted, the charge is not pressed.

Charge No. 7

- 12. Violation of Guideline 15 (5) (d) of MISPG**– The MISP or any of its associate companies, shall not receive directly or indirectly from the Insurer and the Insurer shall not pay directly or indirectly to the MISP or any of its associate company any fees, charges, infrastructure, advertising expenses, documentation charges, legal fees, or any other payment by whatever name called except as specified in MISP guidelines.

Pay-outs were made indirectly through the directors of MISP, the designated persons of MISP and MISP's sponsored by Intermediaries.

Summary of submissions

The Insurer submitted that the payments made to parties mentioned in SCN dated 31 December 2018 are payments that pertained to the period prior to inception of MISP Guidelines. Agreements and invoices of many of these parties have already been checked during the inspection, which clearly mentioned the period. The list encompasses 600+ parties, so producing all the invoices as documentary evidence with this letter for the fact that the same pertained to pre-MISP period is not feasible. The Insurer again confirms that the payments reflected in the said SCN pertain to pre-MISP period.

Further, the Insurer has confirmed that there are no subsisting arrangements with other parties anymore, such as the directors of MISPs.

Decision on Charge no.7

7.1. The Insurer, in response to inspection findings, reply to SCN and during Personal Hearing confirmed that the payments are made under old

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arrangements. Regarding the payments made to Intermediary sponsored MISPs (two parties) and Directors of MISPs, the documentary evidence submitted by the Insurer after personal hearing has been examined and it is found that these entities' names were found in the list of agreements prior to 1st November, 2017 but are not in the payments due statement. The inconsistencies in the documents, namely agreements, payments due list and vouchers of these entities do not fully support the Insurer's contention that these are payments under the old arrangements. However, considering that these entities were in the list of the old arrangements, a lenient view is being taken on these payments.

7.2. The list of entities (five parties) for which the payments were made are not in the list submitted in the statement of 621 parties for which payments were due under old arrangements. Also, the said entities do not have any prior arrangements with the Insurer as per the statement submitted by the Insurer during inspection. The documents submitted post hearing regarding payments made to above entities are not accepted by virtue of the fact that these entities are neither in the list of 'agreements prior to 1st November, 2017' nor in the 'statement of 621 payments for which payments were due'.

In view of the violations observed in the five cases, the Authority in exercise of the powers vested under Section 102(b) of the Insurance Act, 1938 imposes a penalty of **Rs.5 lakh (Rs.1 lakh for each of the entities)**.

7.3. Payments towards utilization of infrastructure fees etc., against MISP Codes 40001679 and 40000078: The Insurer stated that payments made to 600+ parties pertain to pre-MISP period and producing all the invoices as documentary evidence is not feasible. However, the invoices of two MISPs available on record confirm that payments towards utilization of infrastructure etc., for the period upto November 2017. Accordingly, the Authority vide letter dated 30th July, 2019 advised the Insurer to submit clarification.

The Insurer vide email dated 6th August, 2019 submitted the following:
"The invoice for which details have been shared by the Authority were found erroneous. The bills should have mentioned the period of service as October 2017. As soon as the said invoices were received from the concerned dealers, we had brought the fact about error in invoices to their notice and advised to check and correct the same. Letters in this regard are attached".

The period of focused inspection was 12th to 14th February, 2018. Based on the Insurer's reply, it is noted that the dealers had submitted the modified invoices by rectifying the period before the focused inspection period itself. Having observed the mistake in the invoices submitted by dealers in the first instant, the



Insurer ought to have provided rectified invoices rather than erroneous invoices. Secondly, as per the communication of the Insurer and dealers, the payouts would be processed on receipt of revised invoices. However, the material available on record shows the deduction for TDS was initiated and payment was booked prior to receipt of the said rectified invoices.

In view of the inconsistency in the documents, the Insurer's contention that the said payments pertain to pre-MISP period is not accepted. In view of the violations of Guidelines 15 (5) (d) of MISPG observed in the above two cases, the Authority in exercise of the powers vested under Section 102(b) of the Insurance Act, 1938 imposes a penalty of **Rs.2 lakh (Rs.1 lakh for each of the entities)**.

Charge No. 8

13. **Violation of the Objectives** of MISP Guidelines. Payments to Automotive Dealers not converted as MISPs.

Summary of submissions

The Insurer submitted that there have been arrangements with the motor dealers by way of agreements for sharing of infrastructure facilities. However, the obligations under the erstwhile arrangements had to be honored as the same were under contracts which were commercially and legally binding. All the instances reported under the said observation are pertaining to the same category, whereby the payments were towards the services rendered under the old arrangements.

The Insurer, vide letter dated 24th April, 2019, submitted the invoices in support of the payments made to the motor dealers.

Decision on Charge no.8

The said 26 entities were found to be service providers having agreements with the Insurer prior to 1st November, 2017. However, the names of these entities were not in the list of payments due under old arrangements. Therefore, there was inconsistency in the documents provided at the time of inspection. However, after examining and noting further details submitted by the Insurer consequent to the personal hearing, the charge is not pressed.

Charge No. 9

14. **Violation of Guideline 14 (e):** System for day to day monitoring of the MISP and MIS is not in place.



Summary of submissions

The Insurer submitted that the MIS reporting system which was implemented immediately at the launch of MISPG Guidelines has improved substantially over the period. The Insurer has submitted the note on improved MIS reporting system.

Decision on Charge no.9

Having noted and considered the improvement made by the Insurer in the MIS reporting system, the Insurer is hereby **advised** to strictly comply with the system for day to day monitoring of the MISPG as per Guideline 14 (e) of MISPG.

Charge No. 10

15. **Violation of Regulation 3** of IRDAI (Places of Business) Regulations, 2015. Every Insurer shall take the prior approval of the Authority before opening any place of business

The number of offices (financial year wise) indicates that the actual number of offices as per the records of Insurer varies with the number of offices as per the records of the Authority and public disclosures. There is noticeable increase in the number of offices and staff after MISPG guidelines have come into effect. The number of locations with one employee posting have drastically increased in 2017-18. The information about these offices was not furnished to the Authority in violation of requirement of IRDAI (Places of Business) Regulations, 2015.

Summary of submissions

The Insurer submitted that in line with the digital push from the Government of India for cashless transactions and electronic media to be used for business operations, the Company has embarked on the journey of developing workforce that is powered by digital devices to perform functions of an insurance executive. The functions include marketing, solicitation, policy issuance, policy servicing, claims reporting, survey, claims assessment and right up to claims settlement. The officers so equipped with digital equipment's operate from remote locations where the Company does not have physical office. They are, however, mapped to the nearest location where the Company has an established office. The policies sourced by these officers also record the address of the nearest office as the policy servicing office. These virtual sales officers, "as we would tend to call them", they say do not sit in any office location, but are on the street and moving from one customer location to the other.



The Insurer explained the concept of having virtual offices because of connectivity of villages by 4G etc. This, they said, was in line with the digital business push of Government of India & Financial inclusion.

Decision on Charge no.10

Virtual offices cannot be accepted as full-fledged branch offices as defined under Places of Business Regulations. The Insurer's submission that branch office codes are allotted for internal monitoring of the activities of these 'offices' only is not acceptable. The Insurer is hereby **advised** to strict comply with IRDAI (Places of Business) Regulations, 2015 and ensure that office codes are allotted only where they function as 'Places of Business' as defined in the said Regulations.

Charge No. 11

16. **Violation of Regulation 14** (vi) of IRDAI (Outsourcing of Activities by Indian Insurers) Regulations, 2017: Insurance Agents, Insurance Intermediaries and other regulated entities of the Authority shall not be contracted for performing any activity other than those activities that are allowed under the respective regulations or guidelines notified by the Authority from time to time governing their registration or functioning.

Summary of submissions

The Insurer reiterated that they engaged TeamLease as their outsourcing service provider, which is not an insurance intermediary. TeamLease deployed a resource, which was their agent but that does not mean that Bajaj outsourced their activity to TeamLease. However, "having noted the observation of the Authority, the Insurer checked the details in respect of other resources deployed in this way and confirm that there are no more such resources and submitted copy of email received from TeamLease as a documentary proof for the same vide letter dated 24th April, 2019".

The Insurer has submitted an email confirmation from the Team Lease that no agent of Insurer is deployed by them.

Decision on Charge no.11

In view of the confirmation from the Insurer that no agent is deployed for outsourcing activities, the charge is not pressed.



Charge No. 12

17. **Violation of Provisions** Guideline 17 of Guidelines on Product Filing Procedures for General Insurance Products - Prohibition on alteration of terms and conditions and other features of the product.

The Insurer, in their website, has highlighted the DriveSmart service as a benefit and key feature of the product. Since it is not filed as a product feature and there is a cost element to it, which tantamounts to violation of Para 17 of Guidelines on Product Filing Procedures for General Insurance Products issued vide IRDAI/NL/GDL/F&U/030/02/2016 dated 18th February, 2016.

Summary of submissions

DriveSmart was an experiment done on select basis after due discussions with the Authority and a presentation at the Authority's office. There was no intent to introduce the telematic device as an add-on feature at all and no premium has been recovered from the customers in any case. However, the Authority has observed that DriveSmart appeared on the website as an add-on offering. Hence we have removed all the references to DriveSmart from our website. The Screenshots of the website after removing the same are enclosed here as documentary proof.

Decision on Charge no.12

The Insurer's submission on removal of DriveSmart showing it as a product feature from their website is noted. However, the Insurer is silent on booking of the cost of telematics devices under operational expenditure. Moreover, the said product feature was not filed under the product / add-on to include the cost of device under the relevant product / add-on operational expenditure.

It is noted from the records that the Insurer has incurred a substantial amount for supply of these devices. As per the response of the Insurer, 25000 devices were procured and approximately 13000 devices were used for the experiment. The Insurer has not sought any explicit permission for this experiment nor have they commented upon the expenditure head used for this.

Therefore, the Authority in exercise of powers vested under Section 34 (1) of the Insurance Act, 1938 **directs** the Insurer to calculate the total cost of devices procured since 2016 and carry out the necessary adjustment to debit the shareholders' account and submit a certificate from a Chartered Accountant, confirming the accounting transaction.



Charge No. 13

18. **Violation of Section 14 (2) (h) of IRDA Act 1999 read with Section 33 of Insurance Act, 1938:** As per 14 (2) (h) of IRDA Act 1999 read with Section 33 of Insurance Act, 1938, the Insurer shall produce all such books of account, registers and other documents in its custody and furnish statements, information within such time specified.

The Insurer has not furnished any response on non-submission of outsourcing statement.

Summary of submissions

The Insurer submitted the outsourcing statements along with letter dated 24th April, 2019.

Decision on Charge no.13

The non-submission of the documents by the Insurer for the purpose of undertaking inspection is viewed seriously and the Insurer is hereby **directed** not to repeat the same in future.

Summary of Decisions:

Charge No.	Violation of Provisions	Decision
1	Guideline 5 (c) of MISPG – Issuance of Appointment letters	Advisory
2	Guideline 5 (a) of MISPG – Sponsorship	
3	Guideline 7 (b) of MISPG – Training and Examination for Designated Persons	
4	Guideline 15 (13) of MISPG – MISP Database – uploading in IIBI website	
5	Guideline 4 (a) of MISP – Legal structure	
9	Guideline 14 (e) of MISPG – system for day to day monitoring	
10	Regulation 3 of IRDAI (Places of Business) Regulations, 2015	



6	Guideline 5 (b) of MISPG – Verification of eligibility conditions	Charge Not pressed
8	Objectives of MISPG Guidelines	
11	Regulation 14 (vi) of IRDAI (Outsourcing of Activities by Indian Insurers) Regulations, 2017	
12	Provisions Guideline 17 of Guidelines on Product Filing Procedures for General Insurance Products	Direction
13	Section 14 (2) (h) of IRDA Act 1999 read with Section 33 of Insurance Act, 1938	
7	Guideline 15 (5) (d) of MISPG – Indirect payments.	Rs. 7 Lakh penalty


19. In conclusion, as directed under the respective charges, the **total penalty amount of Rs. 7 lakh** (Rupees seven lakh only) shall be remitted by BAGICL by debiting shareholders' account within a period of **15** days from the date of receipt of this order through NEFT/RTGS (details for which will be communicated separately). An intimation of remittance may be sent to Mrs. Yegnapriya Bharath, Chief General Manager (Non-Life) at the Insurance Regulatory and Development Authority of India, Survey No.115/1, Financial District, Nanakramguda, Hyderabad 500032, email id - ypriyab@irdai.gov.in.

Further,

- i. 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 BAGICL 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: 13th September, 2019


 (Dr. Subhash C. Khuntia)
 Chairman