



Order in the matter of M/s Bharti AXA General Insurance Co. Ltd- Filing of revision in Trade Credit Insurance Policy (UIN IRDAN139RP0043V01200910)

Based on the

- (i) Show Cause Notice (hereinafter referred to as "SCN") reference No. IRDAI/NL/Pro/BAXAGICL/SCN/306/2018-19 dated 11th Jan, 2019 in connection with filing of revision in Trade Credit Insurance product pursuant to Guidelines on Product Filing Procedures for General Insurance Products issued by the Insurance Regulatory and Development Authority of India (herein after referred to as 'the Authority' or 'IRDAI')
- (ii) M/s. Bharti AXA General Insurance Co Ltd.'s (hereinafter referred to as "BAXAGICL" or as "Insurer") response dated 1st February, 2019 to the aforesaid SCN.
- (iii) The submissions made by BAXAGICL during the Personal Hearing held on 7th May, 2019 granted by the Chairman of the Authority at its office at Hyderabad.
- (iv) Further submissions/data submitted by BAXAGICL post personal hearing vide email dated 15th May, 2019.

1. Background:

- 1) M/s. Bharti AXA General Insurance Company Ltd had filed for revision of its Trade Credit Insurance Policy. The Authority, while processing the said product application, observed that the insurer had already marketed the product with changes proposed without receiving a written confirmation from the Authority. Hence, SCN was issued on 11th Jan, 2019, which was responded to by BAXAGICL vide letter dated 1st February, 2019. As requested for by BAXAGICL therein, personal hearing was granted to BAXAGICL on 7th May, 2019.
- 2) Mr. Sanjeev Srinivasan, Managing Director & Chief Executive Officer, Mr. Milind V Kolhe , CUO, Mr. Nilesh Kambli CFO and Mr. Amit Raheja, Chief Compliance Officer were present in the personal hearing on behalf of BAXAGICL. On behalf of the Authority, Dr Subhash C Khuntia, Chairman, Ms. Yegnapriya Bharath, CGM (NL), Mr. K. Mahipal Reddy, DGM (NL), Mr. Pradeep Kumar Singh, Manager (NL) were also present.
- 3) The submissions made by BAXAGICL in its letter dated 1st February, 2019 and during the personal hearing on 7th May, 2019 have been considered by the Authority.

2. Charge

The insurer has violated para 7.2(IV)(s) of the Guidelines on Product Filing Procedure for General Insurance Products and Clause II.3 of the Guidelines on Trade Credit Insurance by the Insurer respectively, which are reproduced hereunder:

- 1) **Para 7.2 (IV) (s) of Guidelines on product Filing Procedures for General Insurance Products dated 18th February, 2016:** The Insurer shall not market the product with changes proposed without receiving a written confirmation from the Authority about its noting, if the product falls under File and Use procedures.
- 2) **Clause II.3 of Guidelines on Trade Credit Insurance dated 10th March, 2016:** No trade credit insurance policy shall be sold unless the product has prior approval of the Authority.

3. Summary of submissions

- 1) The Insurer in its written response has submitted that it was the Company `s understanding and belief that the product was compliant with the revised Trade Credit Guidelines and that the revisions introduced by the company were in line with the revised guidelines and therefore went ahead and marketed it.
- 2) During personal hearing, the Insurer has admitted that there were lapses on their part and revision in product features ought not to have been marketed unless noted by the Authority. The Insurer has assured the Authority that now a strict compliance mechanism has been put in place so as not to repeat such incidences.
- 3) The Insurer confirmed that they have marketed and underwritten eighteen policies till the end of March 2019.

4. Decision

Upon examination of the responses to the show cause notice, submissions made in the personal hearing, the facts and material available on record, I am of the view that the interpretation advanced by the Insurer in its written submission that it was its understanding that the existing product was fully compliant with the revised Trade Credit Guidelines is not tenable as the revised guidelines permit additional product features such as enhancing the indemnity from 80 to 85 percent of the trade receivables from each buyer and increasing the aggregate net retentions of the insurer for trade credit insurance amongst other changes. Indeed, the filing of revision of the existing product by the Insurer itself is sufficient proof that the Insurer was well aware that the revision



required filing with IRDAI without whose written confirmation regarding noting of the product, the product cannot be marketed.

The Insurer has violated Para 7.2 (IV) (s) of the Guidelines on product Filing Procedures for General Insurance products dated 18th February, 2016 and Clause II.3 of Guidelines on Trade Credit Insurance dated 10th March, 2016 by marketing the revised product without due noting by IRDAI during the period August, 2016 to March, 2019 i.e for two years and eight months.

On a perusal of the eighteen policies marketed and underwritten till the end of March 2019, it is found that the Insurer continued to market the product with the changes proposed even after issuance of SCN in January, 2019 without being deterred by the charge framed against its actions.

However, having given due consideration to the submissions made by the Insurer in the personal hearing and on their assurance that now a strict compliance mechanism has been put in place so as not to repeat such incidences, in terms of Para 21 of Guidelines on product Filing Procedures for General Insurance Products dated 18th February, 2016, and in exercise of the powers vested in the Authority under section 34(1) of the Insurance Act, 1938, **the Insurer is hereby directed** to scrupulously adhere to the Guidelines on product Filing Procedures for General Insurance Products and Trade Credit Insurance so as to prevent recurrence of such lapses.


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.

It may be noted that any failure to comply with the directions may entail the Authority to take such action as deemed necessary.

5. If the 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: 26th July, 2019


(Dr. Subhash C. Khuntia)
Chairman