



Ref: IRDAI / Enf / ORD / ONS / 164/ 09 /2019

Order in the matter of The New India Assurance Co Ltd

Based on the

- (i) Show Cause Notice (hereinafter referred to as "SCN") reference No.IRDA/Enf/SCN/2019/NL/NIA_Insp.rpt dated 8th March, 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 2nd to 13th January,2017.
- (ii) The New India Assurance Co Ltd (hereinafter referred to as "NIA" or as "General insurer") response dated 29th March, 2019 and 9th April,2019 to the aforesaid SCN.
- (iii) The submissions made by NIA during the Personal Hearing held on 11th July, 2019 at 2.30 PM, taken by the Chairman of the Authority at its office at Hyderabad.

Background:

2. The IRDAI had conducted an onsite inspection of The New India Assurance Co Ltd during 2nd to 13th January, 2017. 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 NIA on 11th December, 2017 seeking their response. On examining the submissions made by NIA vide letter dated 22nd January, 2018, a SCN was issued on 8th March, 2019, which was responded to by NIA vide letter dated 29th March, 2019. As requested by NIA therein, personal hearing was granted to NIA on 11th July, 2019.

4. Mr. M.Atul Sahai, CMD, Ms S N Rajeshwari, GM & CFO and Ms Jayashree Nair, Company Secretary and Chief Compliance Officer were present in the personal hearing on behalf of NIA. 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 NIA during the personal hearing on 11th July, 2019 have been considered by the Authority and on that basis the decision on each of the charges is given as under:

scb

6. **Charge no.1**

Violation of Guideline 1, 3(ix), 8, 11, 22 & 26 of File and Use guidelines circular ref.no 021/IRDA/F&U/SEP-06 dated.28.9.2006, Circular no.IRDA/NL/Cir/F&U/003/01/2011 dated 6th Jan, 2011 and circular no.048/IRDA/De-tariff/Dec-07 dated 18th Dec, 2007

7. **Inspection observation:**

On examination of the insurer infrastructure agreements with automobile dealers, it is noticed that the proposal for sanction of Outsourcing payment in “Auto TIE UP’s” is based on incurred claim ratio. The approvals given by the head office refer to the maximum limit of incurred claim ratio in the Pay-out proposal. In some proposals, the pay-out to the motor dealers is linked to the discount given to the customer on Indian motor tariff (IMT).

Example of pay-out given vis-a vis discount offered is as below

Rate Chargeable	IMT RATE	10% Disc	20% Disc	30% Disc	40% Disc	50% Disc
Recommended Pay-out	60%	55%	50%	40%	35%	20%

By this kind of arrangements, it is observed that, the decision of offering discount to the policyholder is taken by the motor dealer, which is a part of underwriting decision and there is least chance of passing the discount to the policy holder because it is linked to pay-outs.

8. **Summary of submissions**

The payment to Motor Dealers is made under reimbursement of expenses for activities outsourced to the dealers. Dealers have been facilitating insurance services to their customers at dealer premises to enhance customer service at one point and they undertake expenses for above mentioned activities of NIA, hence they are reimbursed for the same. The expenses are fixed at certain percentage of premium depending upon number of services undertaken by the dealers, as a method of limiting the outgo for the company. The Outsourcing expenses to the dealer can be a percentage to OD premium as it is the only way to limit and define the reimbursement the expenses for dealers.

The reason to review motor dealer proposals/agreements based on incurred claim ratio and linking the payout structure to discount offered to customers is to incentivize the motor dealers and to encourage them for better settlement of claims and service.

It was submitted that, no payment has been made to the dealer in lieu of intermediary cost / procure cost. The payment made to the dealer are reimbursement of expenses

incurred by them towards activities outsourced by New India, are as per the IRDAI Outsourcing guidelines.

The company has considered the IMT rates as the reference point for clarity and ease of understanding/comparison by the prospect. However, the ultimate rate charged is the rate approved under F&U guidelines.

9. Decision on charge no.1

On examining the documents provided during the on-site inspection in January, 2017 and those annexed with the show-cause notice, the Authority observed that the insurer while conveying the approval of the infrastructure arrangements with the auto dealers:

- Referred to erstwhile tariff premium (IMT rate) in two of the approvals given to vendors instead of the premium approved under File & Use guidelines. In one approval of the referred two infrastructure agreements with auto dealers, insurer referred the discount as "NIL".
- Payout for services offered by the dealer was on discounted premium and linked to the discount offered on the **IMT** rate.
- Approval/continuation of tie up with the motor dealer was subject to a certain percentage/limit of incurred claim ratio of the premium income.

Thus from all above it is evident that the insurer:-

1. Charged the erstwhile tariff premium instead of the rates/rating factors approved under the File & Use guidelines.
2. Entered into agreements with dealers agreeing for "NIL" discount to the customers and thereby depriving them of the eligible discount on premium.
3. Linking payout to the dealer towards services to the net premium received from the policyholder and continuation/renewal of dealer tie up with incurred claim ratio.

It is further noted that the two sample agreements examined were entered by insurer on 2nd February, 2015 and 4th July, 2015, whereas on a similar observation the Authority in its decision at charge 3 and 7 of the order dated 11th March, 2016 has penalized the insurer by Rs.5 lakhs. As the agreements entered with vendors were prior to the Authority order and an action already taken and assuming no such agreement entered post Authority order, charge is not pressed.

The insurer is advised to ensure compliance to rates and rating factors approved under File & Use guidelines.



10. **Charge no.2**

Violation of Regulation 9 of IRDA (Protection of Policyholders' Interests) Regulations, 2002

11. **Inspection observation:**

In three sample cases examined, it was found that there was a delay in payment of the claim amount. Details as below:

Sample no.	Date of Surveyor Deputation	Final Survey Report Received	Payment Released on
Sample 1	31.07.2014	27.04.2015	20.11.2015
Sample 2	24.11.2015	07.01.2016	31.03.2016
Sample 3	27.02.2015	06.10.2015	22.01.2016

12. **Summary of insurer submissions:**

The Company monitors non-suit claims on a regular basis and there is a separate department at HO to do that. NIA has specialized Claims Hub across the country with well trained staff whose focus is to settle claims expeditiously. The company settles claims within two days of acceptance of the offer as per PPHI Regulations.

Sample 1: The policy has reinstatement clause, wherein the insured has been given 12 months period from the date of loss to reinstate the loss. The surveyor after inspecting the completion of repairs issued a survey report in April, 2015. On seeking further clarification and on regular discussions, clarification from the surveyor with respect to loss assessment was received on 24/09/2015, claim was approved in October, 2015, bank details were received on 17th November, 2015 and payment was released on 20th November, 2015. There is no delay in claim payment.

Sample 2:

The GPA policy was issued for first time and claim occurred within 24 hours of policy i.e within the close proximity period, hence arranged for investigation. The investigation report was received on 7th January, 2016.

Sample 3: The policy has reinstatement clause, wherein the insured has been given 12 months period from the date of loss to reinstate the loss. The surveyor followed up closely with insured for documents. On seeking further clarifications from surveyor, the claim was approved on 18th January, 2016, bank details were received on 20th January, 2016 and payment was released on 22nd January, 2016. The claimant too appreciated vide letter addressed on 25th January, 2016 for taking prompt measures in settling the claim.



13. **Decision on Charge no.2**

On examining the claim wise **data provided by insurer** with regard to the three sample claims, it is observed that in all three claims there has been a delay beyond 30 days in making an offer to claimant. Details as below:

Sample no	Date of receipt of survey report	Date of offer made by NIA
1	27-04-2015	15-10-2015
2	07-01-2016	31-03-2016
3	06-10-2015	19-01-2016

In view of the violation observed in the 3 sample claim cases on delay in making an offer by the general insurer after receipt of surveyor report, the Authority in exercise of the powers vested under Section 102(b) of the Insurance Act, 1938 **imposes a penalty of Rs.3 lakhs** (Rs.1 lakh per day, during 3 days in which the insurer violated the Regulation, by making offer beyond 30 days)

Further, the general insurer is directed to pay penal interest for the delayed period as per the provisions of Regulation 9 of IRDA (Protection of policyholders' Interests) Regulations, 2002.

14. **Summary of Decisions:**


Charge No.	Violation of Provisions	Decision
1	F&U guidelines/circulars	Advisory
2	Regulation 9 of IRDA (Protection of Policyholders' Interests) Regulations, 2002	Penalty of Rs.3 lakhs

15. **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.

16. If NIA 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: 13/09/2019


(Dr. Subhash C. Khuntia)
Chairman