



Ref: IRDA / F&A / ORD / FA / 008 / 01 / 2020

Order in the matter of Cholamandalam MS General Insurance Company Limited

Based on the

- (i) Show Cause Notice (hereinafter referred to as "SCN") reference no. 191/F&A(NL)/GCM/02/2017-18/125 dated 20th May, 2019 in connection with the examination of Financial Statements for the year 2016-17 conducted by the Insurance Regulatory and Development Authority of India (Authority/IRDAI).
- (ii) The General Insurer's response vide letters dated 13th February, 2018, 2nd July, 2018, 23rd November, 2018, 20th December, 2018, 11th June, 2019 and 6th September, 2019 to the information sought.
- (iii) The submissions made by Cholamandalam MS General Insurance Company Limited (Chola MS/General Insurer) during the Personal Hearing held on 28th August, 2019 at 4.00 PM, taken by the Chairman of the Authority at its office at Hyderabad and subsequent submission dated 6th September, 2019.

Background

2. The Authority had conducted an off-site analysis of the Financial Statements for the financial year 2016-17 of the General Insurer and had raised certain observations / comments with the General Insurer vide Authority's letter reference no. 191/F&A(NL)/GCM/ANA/01/2017-18/186 dated 12th January, 2018.
3. The General Insurer, vide letter dated 13th February, 2018, submitted that the vendor advances of Rs. 118.66 crores had been paid in FY 2016-17. However, the General Insurer had not provided the party wise detail. Accordingly, a party wise list along with a brief description of nature of advances paid was called for by the Authority vide email dated 11th June, 2018. The General Insurer submitted their response vide letter reference no. IRDAI/CHOLAMS/COMP/FINQUERIES JUNE 2018/045 dated 2nd July, 2018. On scrutiny of the party-wise details furnished by the general insurer, it was observed that out of Rs. 118.66 crore, a sum of Rs. 114.43 crore had been paid to parties who were corporate agents, related

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parties and Original Equipment Manufacturer (OeM of automobiles) which has not been settled / adjusted during the year and the balance remained outstanding as on 31.03.2017. Further, it was stated in the response that the said advances had been paid towards advertisements, manpower supply and risk assessment services. The General Insurer was further advised to provide the following information along with other details on these advances paid, vide email dated 12th November, 2018 of the Authority:

- a. Minimum and Maximum balance outstanding (party wise) for the last 3 years;
- b. Subsequent amount spent on advertising against the advance paid to these parties; and
- c. Agreements entered into with these parties.

The general insurer responded vide their letter reference no. IRDAI/CHOLAMS/COMP MISC/NOV 2018/118 dated 23rd November, 2018. However, the details sought at para 3(a) and (b) above were not furnished. Accordingly, a reminder vide email dated 6th December, 2018 was sent specifically advising the general insurer to provide the above details. The general insurer replied vide letter ref: IRDAI/ CHOLAMS/ COMP/ FS QUERIES/ DEC 2018/ 128 dated 20th December, 2018 and submitted the details sought in para 3(a) and (b) above. The Authority examined the same and observed that the advances had been paid to various parties as under:

- a. Rs. 22.98 crore to Ashoka Leyland Limited which is an OEM;
- b. Rs. 9.39 crore to Chola MS Risk Services Limited, Group company of the General Insurer;
- c. Rs. 40.96 crore to M/s DHFL Sales and Services Limited, associate of corporate agent of the general insurer;
- d. Rs. 42.47 crore to Chola Insurance Distribution Services Private Limited, a related party and corporate agent of the general insurer providing insurance distribution services.

Further, the general insurer confirmed vide letter dated 20th December, 2018 that the advances had been subsequently adjusted against advertising, publicity and manpower supply.

4. After examination of the submissions made by the general insurer, an SCN was issued on 20th May, 2019, which was responded to by the general insurer vide letter dated 11th June, 2019. As requested by the general insurer therein, personal hearing was granted to the general insurer on 28th August, 2019.



5. Mr. S S Gopalarathnam, MD and CEO, Mr. V Suryanarayan, President and Chief Operating Officer, Mr. Venugopalan S, Chief Financial Officer, Mr. S Vedanarayanan, President – Emerging Business and Mr. Suresh Krishnan, Chief Compliance Officer were present in the personal hearing on behalf of the General Insurer. On behalf of the Authority, Ms. Yegna Priya Bharat, CGM (Non-Life), Mr. R K Sharma, GM (F&A Non-Life), Ms. Jamuna Choudhary, AGM (F&A Non-Life) and Ms. Naina Goyal, AM (F&A Non-Life) were also present.
6. The submissions made by the general insurer during the personal hearing on 28th August, 2019 and subsequent information submitted vide their letter dated 6th September, 2019 have been considered by the Authority.

7. **Charge**

Violation of Paragraph 6 – Control Functions under Guidelines for Corporate Governance for Insurers in India, 2016.

8. **Party-wise summary of observations, submissions of the general insurer and the conclusion of the Authority is as under:**

8.1. Ashok Leyland Limited:

8.1.1. Summary of Observations:

A sum of Rs. 22.98 crore was paid in advance and the same was adjusted as expenses towards “Advertising and Publicity” against the monthly bills raised after 31st March, 2017. However, it is noted that the recipient is not predominantly engaged in the business of advertisement.

8.1.2. Summary of submission:

Chola MS has entered into advertisement agreement with Ashok Leyland Ltd towards placing advertisement hoardings, boards at various touch points of Ashok Leyland Ltd spread across India and the charges were paid every month based on the touch points and there is no linkage to premium received. The amount paid is only on the basis of the number of hoardings / other advertisement material displayed at all touch points.



8.1.3. Conclusion:

On examination of the documents provided during the off-site analysis and the submissions made to the Authority in response to SCN, the following is observed:

- (i) As per submissions of the general insurer, the amount was paid on the number of hoardings / touch points on monthly basis whereas a lump sum amount of Rs. 22.98 crore was paid in advance. It is not known on what basis the general insurer has been claiming that the amount of Rs. 22.98 crore was paid on the basis of number of hoardings/touch points;
- (ii) Further, the numbers of hoarding and touch points and the rate at which the payment was made for each touch point significantly differs from the numbers and the rate mentioned in the agreement which is evident from the table given below:

Sales and Network	No. of touch points		Per location/per month (Rs.)	
	As per agreement	As per submission	As per agreement	As per submission
Touch Points	60	344	13,500	20,000
Dealer Outlets	85	130	20,000	60,000
Zonal/Regional/Area offices	25	138	13,500	20,000
Highway Mechanics	Not Provided	275	Not Provided	12,000
Lay Parts	Not Provided	736	Not Provided	11,000

- (iii) The recipient is not predominately engaged in the business of advertisement or branding. Hence, these payments raise concerns of whether these were genuine business transactions.

8.2. Cholamandalam MS Risk Services Limited (CMSRSL):

8.2.1. Summary of Observation:

A sum of Rs. 9.39 crore was outstanding advance as on 31.03.2017 and the same was adjusted against the advertisements. Further CMSRSL has not been shown / classified as related party by the general insurer. Accordingly, all the transactions



entered into with CMSRSL have not been placed before the Audit Committee, whereas the CMSRSL is related party due to the following:

- (i) There are 6 directors in CMSRSL of which 4 directors are common to the general insurer;
- (ii) CMSRSL falls under the same group to which the general insurer belongs.

8.2.2. Summary of submission:

As per the submission of the General Insurer made vide their letter dated 20th December, 2018, the said advance was subsequently adjusted after 31st March, 2017 against Advertisement expenses. Whereas in response to the SCN, the General Insurer submitted that CMSRSL is providing the following services for Fire and Engineering segment:

- (i) Risk Management Studies in the area of Safety, Health and environment;
- (ii) Pre-underwriting risk inspection, surveys and evaluation services; and
- (iii) Post-loss studies especially in case of fire losses.

The general insurer stated that CMSRSL is providing similar services to other entities too. The general insurer was advised to furnish the details of the services provided to other entities. However, the same has not been furnished till date.

On related party classification of CMSRSL, the general insurer agreed to review the legal position and ensure compliance with the provisions of the Companies Act, in both letter and spirit.

8.2.3. Conclusion:

8.2.3.1. In the first instance, the general insurer has informed, vide letter dated 20th December, 2018, that the said outstanding advance has been adjusted against advertisement. However, in response to SCN, the general insurer has informed, vide letter dated 11th June, 2019, that the said advance has been adjusted against the risk management studies, pre-underwriting risk inspection, etc. Thus, the general insurer has made contradictory statements.

8.2.3.2. As per the Memorandum of Association of the CMSRSL, it is in the business of providing comprehensive healthcare advisory and management

services and not in the business of fire or engineering. Thus, there is a clear contradiction in the submissions made by the insurer.

8.2.3.3. Further, the general insurer has failed to provide detail of services provided by CMSRSL to other entities.

On the basis of the above it can be concluded that the recipient is not predominately engaged in the business for which payments were made. Hence, these payments raise concerns of not being genuine business transactions.

8.3. DHFL Sales and Services Limited:

8.3.1. Summary of Observations:

The general insurer has made advance payments to DHFL Sales and Services Limited of Rs. 40.96 crore for providing manpower services and the same has been adjusted towards manpower services. The general insurer has not submitted the Memorandum of Association of DHFL Sales and Services Limited to the Authority and as per online sources, it is observed that this entity is not predominantly engaged in the business of advertising, branding or manpower supply. DHFL is a corporate agent, of which, DHFL Sales and Services Limited is a related party.

8.3.2. Summary of submissions

The general insurer has submitted that advance was given to the entity for maintaining the continuity of data services that the company provides to the general insurer. The insurer has also submitted that DHFL is a corporate agent of the general insurer but DHFL Sales and Services Limited is no more an Associate of the corporate agent.

8.3.3. Conclusion:

The general insurer has not submitted the Memorandum of Association of DHFL Sales and Services Limited to the Authority and as per online sources, it is observed that this entity is not predominantly engaged in the business of advertising, branding or manpower supply. Hence, these payments raise concerns of not being a genuine business transaction.



8.4. Chola Insurance Distribution Services Private Limited (CIDSPL):

8.4.1. Summary of the Observation:

A sum of Rs. 42.47 crore remained outstanding as advance as on 31.03.2017 and the same was adjusted towards branding services after 31st March, 2017. As observed in the preceding paras by the Authority, CIDSPL is not predominantly engaged in the business of advertising, branding or manpower supply. The general insurer has not submitted the Memorandum/Articles of Association of CIDSPL, which is a Group company of the general insurer and also a Corporate Agent. That the Memorandum/Articles of Association was not submitted has been accepted by the general insurer in the personal hearing held on 28th August, 2019.

9. Decision on the Charge

It is observed that, by making these advance payments to various entities as stated above, the general insurer has contravened the provisions of Paragraph 6 of Guidelines for Corporate Governance for Insurers in India, through improper use of the funds from the policyholders' account and having inadequate control over the administration of funds.

In view of the violation observed, the Authority, in exercise of the powers vested in Section 102 (a) and Section 102 (b) of the Insurance Act, 1938, **imposes a penalty of Rs. 1,00,00,000/-** (Rs. One Crore only).

10. Further,

- a. The penalty of Rs. One Crore shall be remitted by the general 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 Mr. R K Sharma, General Manager (F&A – NL), IRDAI, Sy.No. 115/1, Financial District, Nanakrumpuda, Hyderabad – 500032.
- b. The Order shall be placed before the Board of the General Insurer in the next Board Meeting and the General Insurer shall provide a copy of the minutes of the discussion to the Authority within 10 days from the date of the Board Meeting;
- c. The General Insurer shall submit an Action Taken Report to the Authority on the direction given within 90 days from the date of this Order.

11. 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: 7th January, 2020


7/1/20
(Dr. Subhash C. Khuntia)

Chairman