



बीमा विनियामक और विकास प्राधिकरण
**INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY**

ORDER

Ref: IRDA/F&I/ORD/ 464.1/9/F&A/RDL-31B/2011-12/18

11th December, 2013

Mr. Kshitij Jain,
Chief Executive Officer,
ING Vysya Life Insurance Co. Ltd.,
5th Floor, ING Vysya House,
22, M.G. Road,
Bangalore-560001.

Levy of Penalty under Section 102 of the Insurance Act, 1938

The Insurance Regulatory and Development Authority (herein after referred to as "the Authority") issued a certificate of registration bearing No.114 to ING Vysya Life Insurance Co. Ltd. (herein after referred to as "the insurer") on 2nd August 2001 to carry on business of Life Insurance in India in terms of Section 3 of the Insurance Act, 1938. The said certificate of registration is further renewed on 1st April 2013. In terms thereof the insurer was subject to the terms and conditions of the certificate of registration and was also required to abide by the provisions of the Insurance Act, 1938 (herein after referred to as the Act), the Insurance Regulatory and Development Authority Act, 1999, particularly the Insurance Regulatory and Development Authority (Licensing of Corporate Agents) Regulations, 2002 / Insurance Regulatory and Development Authority (Insurance Brokers) Regulations, 2002 and other directions issued by the Authority from time to time by way of circulars and/or guidelines particularly, Circular no.017/IRDA/Circular/CA Guidelines/2005 dated 14th July 2005 (herein after referred to as 'the Guidelines').

On review of the 31B return filed with the Authority in accordance with IRDA circular no. IRDA/F&I/CIR/DATA/066/03/2012 dated 2nd March, 2012 w.r.to the financial year 2011-12, it was observed that the insurer has made payouts towards insurance awareness programs/ campaigns, surveys/customer feedbacks etc. to corporate agents Manjrak Marketing and Darius Finvests apart from the permissible commission in violation of Clause 21 of the Guidelines. The total payouts made to

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the said corporate agents including commission were over and above the permissible limits under Sec 40A of the Act. Similar kind of payouts were also made to Broker RDB Insurance Brokers which were in violation of Regulation 19 of the Regulations.

The Authority communicated the findings to the insurer on 20th July, 2012 and sought explanation. The insurer submitted its response vide letter dated 14th August, 2012. The Authority examined the response of the insurer and issued Show Cause notice on 8th February 2013. Show cause notices were also issued to the corporate agents/the Broker simultaneously for having received the payments. The insurer submitted reply in response to the Show Cause notice on 20th March 2013.

In reply to the Show cause notice, insurer submitted that they are having separate arrangements with the aforementioned corporate agents/broker and the activities carried out by the said entities are separate from corporate agency / broker arrangements, further are not linked to the insurance business sourced by such entities. Insurer has further indicated that there were few clerical / technical errors in the 31B return submitted to the Authority and has thus furnished revised return along with the reply letter.

On analyzing the revised return for the financial year 2011-12, it was observed that other payouts in the nature of insurance awareness programs/ campaigns, surveys/customer feedbacks etc. made to corporate agent Manjrak Marketing are Rs. 46.56 Lakh and to Darius Finvests are Rs. 12.04 Lakh. The said payments along with commission are over and above Sec 40A limits of the Act by Rs. 26.20 Lakh and Rs. 4.08 Lakh respectively. In case of Broker RDB Insurance Brokers, other payouts as per revised return are Rs. 3.26 Lakh, which along with the brokerage are over and above the permissible limits under Regulation 19 of the Regulations by Rs. 2.96 Lakh.

On analyzing the 31B return for the financial year 2012-13, it was observed that similar kind of payouts were made to corporate agents Manjrak Marketing and Darius Finvests @ Rs. 19.08 Lakh and Rs. 2.95 Lakh respectively. These payouts



were over and above Sec 40A limits by Rs. 5.12 Lakh and Rs. 1.63 Lakh respectively.

Subsequently, insurer's officials visited the Authority and presented their case personally on 16th July, 2013. During the personal hearing, payouts pertaining to both the financial years were discussed. Insurer indicated that the payments towards marketing research activities were for conducting various insurance awareness programs, organizing various marketing events in the areas of their presence on behalf of the insurer. Insurer further mentioned that such activities were stopped from the 2nd quarter of the FY 2012-13.

Sec 40A of the Act limits the payments to any agent by way of remuneration or reward or otherwise to a defined sum. Regulation 8(1) of the Regulations requires a corporate agent to abide by Sec 40A of the Act and clause 21 of the Guidelines reinforce this concept that a corporate agent can be paid only the approved commissions and no other fees or charges or rewards whatsoever except reasonable expenses for co-branded sales literature. Similarly, Regulation 19 of the Regulations limits the payments to any broker by way of remuneration to a defined sum.


In view of the above, the Authority is of the considered view that insurer has violated the provisions of clause 21 of the Guidelines 2005 read with Sec 40A of the Act and Regulation 19 of the IRDA(Insurance Brokers) Regulations 2002.

Having regard to the facts of the case and the gravity of the violations committed by the insurer, the Authority in exercise of powers vested in it under section 102 of the Act imposes a penalty of ₹1,00,000 (one lakh) for the above violations. Insurer is further directed to strictly adhere to the Insurance Act, 1938, Regulations made there under, Guidelines and Circulars issued in this regard from time to time. Further, the Insurer is warned for having misled the Authority by furnishing erroneous information at the first instance and submitting revised return only in response to the show cause notice.



The penalty amount shall be paid within a period of 15 days from the date of receipt of this order through a Cross Demand Draft in favour of "Insurance Regulatory and Development Authority" payable at Hyderabad, which may be sent to Mr. R.K.Sharma, Deputy Director (F&A) at the Insurance Regulatory and Development Authority, 3rd Floor, Parishrama Bhavan, Basheer Bagh, Hyderabad - 500004.

Place: Hyderabad
Date: 11th December, 2013


(R.K.Nair)
Member (F&I)
